



Interim access determination for the Superfast Broadband Access Service

Explanatory note

July 2021



Australian Competition and Consumer Commission

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Glossary

access agreement	A commercial contract between the access provider and an access seeker which sets out negotiated terms and conditions of supply for an agreed period of time.
access determination	Written determination made by the ACCC relating to access to a declared service after conducting a public inquiry, specifying any or all of the terms and conditions for compliance with any or all of the standard access obligations.
access seeker	Telecommunications company that seeks access to the declared service (that is, the right to use the declared service).
access provider	Telecommunications company that provides access to a declared service.
AVC	Access Virtual Circuit. AVC is the bandwidth allocated to the end-user premises. It is charged on a per-connection basis.
CVC	Connectivity Virtual Circuit. CVC is the bandwidth capacity required to serve a collection of end-user premises (as defined by the NBN Corporation).
declared service	A service that the ACCC regulates under Part XIC of the <i>Competition and Consumer Act 2010</i> . Once declared, a service provider must supply the service to other parties in accordance with the standard access obligations and the terms and conditions set in any final access determination.
downstream	Further along the supply chain. For example, mandating access to wholesale services can promote competition in downstream retail broadband services
end-user	A retail consumer of telecommunication services.
fibre access broadband	A superfast broadband service offered by Telstra over its South Brisbane and Velocity estates fibre networks. These services are offered with maximum data rates of either 30/1 or 100/5 megabits-per-second (Mbps).
final access determination	The final access determination is made by the ACCC and sets the terms and conditions (including prices) on which a service provider may be required to supply a declared service.
interim access determination	An access determination made under section 152BCG of the <i>Competition and Consumer Act 2010</i> .
Layer 2	The Data Link Layer of the open systems interconnection model. The data link layer provides a connection between two fixed end points in a network to facilitate the transmission of data traffic.
standard access obligations	Under section 152AR of the <i>Competition and Consumer Act 2010</i> , the standard access obligations require an access provider to: <ul style="list-style-type: none"> • supply the service to an access seeker on request • take all reasonable steps to ensure that the technical and operational quality and fault detection, handling and rectification of the service provided to the access seeker is equivalent to that which it provides to itself, and • allow interconnection.
superfast network	A network capable of download data rates of normally 25 Mbps or more.

On 19 July 2021, the ACCC varied and extended the Superfast Broadband Access Service (the 'varied SBAS') for five years to have effect from 27 July 2021 until 28 July 2026.¹ The varied SBAS declaration combines the previous SBAS and Local Bitstream Access Service (LBAS) declarations.²

On 19 July 2021 the ACCC commenced an inquiry into a Final Access Determination (FAD) for the SBAS, which when finalised will set price and non-price terms and conditions of access to the varied SBAS services.

As set out in this document, the ACCC has also made an Interim Access Determination (IAD) to set terms and conditions of access for the varied SBAS while we undertake the public inquiry to make new terms.

The ACCC has made this IAD because we will not be able to make a new FAD before the current regulated terms expire on 28 July 2021. This will provide certainty to industry regarding terms and conditions of access until we can make a new FAD. The IAD applies from 27 July 2021 to the earlier of: a) 31 December 2022, or b) the day on which the new FAD comes into force.

This IAD preserves the existing regulated terms that have applied to non-NBN networks over the past five years under the previous FADs.³

We consider this will promote the long-term interests of end-users by providing certainty until the ACCC issues a new FAD. It will ensure continuity of regulatory arrangements for access providers and access seekers during this period. The regulated terms only apply if access providers and access seekers cannot reach their own commercial agreement.

Applicable services

The varied SBAS is a declared wholesale fixed-line broadband service provided over a 'superfast' network (capable of download speeds of normally 25 Mbps or more). It is supplied on non-NBN networks, and enables retail service providers to supply internet services to their customers. The varied SBAS declaration is available on the [ACCC's website](#).

The IAD maintains existing small provider exemptions to the standard access obligations. This exempts providers supplying up to 12,000 end-users from the varied SBAS declaration (but not providers previously captured by the LBAS declaration which were not subject to the small provider exemption). This will provide regulatory certainty to small providers during our public inquiry and enable further consideration of whether the small provider exemptions should be included in the new FAD.

The varied SBAS declares all wholesale Layer 2 broadband services supplied over non-NBN fixed line 'superfast' networks. This includes basic broadband products such as the 12/1Mbps service. This expands the scope of the previous declarations, which specified a minimum data rate (generally 25/5Mbps). However, this IAD does not set regulated price or non-price terms and conditions of access to these basic broadband products. We will consider what regulated terms of access may be required for these services in our FAD inquiry.

¹ ACCC, LBAS & SBAS declarations inquiry – final decision, July 2021.

² The ACCC has streamlined the regulation of non-NBN superfast broadband under a single SBAS declaration that applies to all networks, regardless of when the network was built. The LBAS declaration was revoked on 27 July 2021.

³ Further information is available in our SBAS and LBAS FAD joint inquiry final decision [here](#). The [2012 LBAS](#) and [2016 SBAS](#) declaration instruments are also available on our public register.

Pricing and other terms of access

Consistent with the outcomes of our 2017 FAD inquiry,⁴ the IAD maintains separate prices for:

- Fibre Access Broadband services supplied in Telstra's South Brisbane and Velocity estate networks
- other services under the varied SBAS.

The regulated prices (excluding Telstra's Fibre Access Broadband services) continue to be set in line with the NBN's prices, as amended from time to time.

Table 1: Price terms for Telstra's Fibre Access Broadband services

Charge component	Interim price
Port Zone 1 per month	\$13.01
Port Zone 2/3 per month	\$18.15
Aggregation per Mbps/month	\$29.27

Table 2: SBAS prices (excluding Telstra Fibre Access Broadband services)

Charge component	Initial price	CVC Inclusion (Mbps)	Subsequent prices
Price per month	\$37.00	1.50	The price for the NBN Co Bundled AVC TC-4 25/5 Mbps and CVC TC-4 product components, as amended from time to time (including discounts)
CVC Overage per Mbps ^a	\$8.00		The price for the NBN Co Overage Amount as amended from time to time (including discounts)

^a the CVC Overage charge applies when, over a billing period, the bandwidth (CVC) ordered by an access seeker is greater than the CVC Inclusion.

These price terms are set out in Schedule 2 of the IAD and other non-price terms and conditions in the Schedules 3-12.

⁴ ACCC, SBAS & LBAS Final Access Determination inquiry – final decision, May 2017.