

# Explanatory Note

Issued by the Authority of the Minister for Broadband,  
Communications and the Digital Economy

*Telecommunications Act 1997*

*Telecommunications (Network Exemption—Specified TransACT Networks) Instrument 2012  
(Amendment No. 2 of 2012)*

## Purpose

The purpose of this Instrument is to amend the *Telecommunications (Network Exemption—Specified TransACT Networks) Instrument 2012* (the Original Instrument) to modify its operation.

This Instrument is not a legislative instrument for the purposes of the *Legislative Instruments Act 2003* (see subsections 141A(6) and 144(6) of the *Telecommunications Act 1997* (the Act)).

## Background

On 10 April 2012, the Minister for Broadband, Communications and the Digital Economy made the Original Instrument, which has the purpose of exempting from the requirements of sections 141 and 143 of the Act certain fibre networks which TransACT Capital Communications Pty Ltd (TransACT) has been contracted to construct. The Original Instrument was amended on 30 May 2012.

## Details

This Instrument amends the Original Instrument to provide TransACT with flexibility it has requested to change its aggregation service, such that a range of service speed combinations can be offered over the particular fibre-to-the-premises networks covered by the Original Instrument. This provides TransACT with operational flexibility to change the speeds of its services in response to market demands while providing end-users with ongoing access to services with similar or better speed profiles.

As originally drafted, clause 3 relevantly specified that the TransACT FTTP Layer 3 Wholesale Interconnection Service, a wholesale service that, as a condition of the exemption, TransACT is required to offer over the networks exempted under the Original Instrument, needed to support three specific service speed combinations. The definition of TransACT FTTP Layer 3 Wholesale Interconnection Service referred to, among other things, an aggregation service which supported three access services with maximum transmission speeds of:

1. 10 Mbps download and 2 Mbps upload;

2. 30 Mbps download and 10 Mbps upload; and
3. 100 Mbps download and 20 Mbps upload.

This amendment provides TransACT with greater flexibility by allowing it to offer wholesale aggregation services which support access services at higher maximum download speeds, and in two instances, slightly lower maximum upload speeds. The amended speeds are set out in the following table.

<b>Maximum Download Speed</b>	<b>Maximum Upload Speed</b>
At least 10 Mbps and less than 25 Mbps	At least 1 Mbps
At least 25 Mbps and less than 100 Mbps	At least 5 Mbps
At least 100 Mbps	At least 20 Mbps

For the sake of clarity, TransACT must offer aggregation services which are capable of supporting access services within each of the three bands identified in the table. TransACT will also have the flexibility offer two or more service combinations within the one band. For example, within the second band, TransACT could offer speed combinations of both 25/5 Mbps and 50/20 Mbps.

The amendments are intended to enable TransACT, as it has requested, to offer services aligned with the service offerings available over the fibre-based National Broadband Network.

While separate from, and not dependent on, the amendments to the instrument, TransACT has advised that it will be making significant reductions to its retail pricing in conjunction with changes to the speeds for its fibre-based services.

The changes to the instrument do not relieve TransACT of any obligations to its customers in relation to changes to its services that apply under its standard forms of agreement.

The changes to the exemptions are considered to be consistent with the rationale for the original exemptions, in that, they provide TransACT with commercial flexibility in relation to pre-contracted projects and should not materially impact on the wider delivery of outcomes by the National Broadband Network generally.