

Commonwealth of Australia

Telecommunications Act 1997

**Telecommunications (Network Exemption—
Telstra South Brisbane Network)
Instrument 2012
As amended**

Made under the *Telecommunications Act 1997* as in force at 25 June 2020.

This compilation was prepared on 16 June 2020 taking into account amendments made on 16 June 2020.

Prepared by the Department of Infrastructure, Transport, Regional Development and Communications

1 Name of Instrument

This Instrument is the *Telecommunications (Network Exemption— Telstra South Brisbane Network) Instrument 2012*.

2 Cessation

This Instrument ceases to have effect on the earlier of:

- (a) the day which is 90 days after the customer transition completion date; and
- (b) 1 July 2022, if Telstra owns the Telstra South Brisbane Network on that day.

Note 1 This instrument commenced on 12 April 2012

3 Definitions

In this Instrument:

Act means the *Telecommunications Act 1997*.

access seeker has the same meaning as in Part XIC of the *Competition and Consumer Act 2010*.

customer transition completion date means the day on which Telstra has completed the disconnection of all Telstra-Equipped Services supplied to premises connected to the Telstra South Brisbane Network.

declared service has the same meaning as in Part XIC of the *Competition and Consumer Act 2010*.

Fibre Access Broadband Service means a carriage service that:

- (a) is offered to be supplied on a wholesale basis;
- (b) is supplied by means of an optical fibre line; and
- (c) is offered to be supplied at each of the following maximum transmission speeds:
 - (i) download transmission speed of 8Mbps and upload transmission speed of 384kbps;
 - (ii) download transmission speed of 30Mbps and upload transmission speed of 1Mbps;
 - (iii) download transmission speed of 100Mbps and upload transmission speed of 5Mbps; and
- (d) has the following configurations:
 - (i) a ‘best effort’ or non-prioritised service, as characterised by the Differentiated Services Code Point Default Forwarding per-hop behaviour; and
 - (ii) connectivity made with static Layer 2 Tunnelling Protocol (L2TP) tunnels and Broadband Virtual Local Area Networks giving direct access to end user sessions; and
 - (iii) end-user sessions are aggregated together in the Telstra network via static L2TP tunnels supplied over Ethernet.

Telstra-Equipped Services means carriage services which Telstra, while it is in a position to exercise control of the Telstra South Brisbane Network, supplies to itself or to access seekers at premises connected to the Telstra South Brisbane Network, including the Fibre Access Broadband Service.

Telstra South Brisbane Network means an optical fibre-based telecommunications network:

- (a) that is owned by Telstra or over which Telstra is in a position to exercise control; and

- (b) which comprises:
- (i) a network located in the South Brisbane suburbs of Highgate Hill, West End, Dutton Park and Fairfield (as depicted in the map at Schedule 1 to this Instrument); and
 - (ii) local access lines or parts of local access lines located outside the areas specified in subparagraph (b)(i) necessary for the provision of carriage services to premises located within the areas specified in subparagraph (b)(i); and
- (c) which uses fibre-to-the-premises architecture.

Note By virtue of paragraph 46(1)(b) of the *Acts Interpretation Act 1901*, the following expressions have the same meaning as in the Act:

- *ACCC*
- *carriage service*
- *a person being in a position to exercise control over a network*
- *local access line*
- *optical fibre line*
- *telecommunications network*
- *Telstra*

4 Exemptions

- (1) Subject to the conditions set out in subclauses (2) and (3), and pursuant to subsection 141A(1) of the Act and 144(1) of the Act, the Telstra South Brisbane Network is exempt from sections 141 and 143 of the Act.
- (2) The exemptions are subject to the condition that, if a Fibre Access Broadband Service is not a declared service:
- (a) Telstra must offer and supply to access seekers, upon reasonable request, a Fibre Access Broadband Service over the Telstra South Brisbane Network; and
 - (c) Telstra must:
 - (i) publish on the wholesale section of its website, the terms and conditions (price and non-price) on which it offers and supplies the Fibre Access Broadband Service on the Telstra South Brisbane Network (*reference offer*); and
 - (ii) each time it enters into an agreement with an access seeker for the supply of Fibre Access Broadband Services on the Telstra South Brisbane Network, where the terms and conditions are not the same as those set out in reference offer, Telstra must provide to the ACCC within 14 days of entering into the agreement:
 - (A) the identity of the parties to the agreement; and

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- (B) the differences between the terms and conditions set out in the agreement and the terms and conditions published on its website;
 - (iii) each time it implements a material change to either the reference offer or the product specification for the Fibre Access Broadband Service, provide the following information to the ACCC within 14 days of implementing the change:
 - (A) the nature of the change; and
 - (B) the date the change took effect.
- (3) Telstra must provide a written report to the ACCC and the Minister:
 - (a) every six months commencing on 15 July 2020 until the cessation of this Instrument; and
 - (b) within 30 days of a written request by the ACCC pursuant to this paragraph;
detailing the progress of the sale of the Telstra South Brisbane Network, including:
 - (c) a summary of the legal arrangement(s) for the transfer of ownership of the Telstra South Brisbane Network (including the name of the purchaser and date of transfer);
 - (d) if, as at the date of the report, legally binding arrangement(s) are in place for the transfer of ownership of the Telstra South Brisbane Network, the following information about the customer transfer process:
 - (i) details of the work arrangements (including physical work) required to be undertaken (or being undertaken) by Telstra to effect the transfer of the local access line to the network purchaser;
 - (ii) the number of local access lines where physical work has been initiated (but not yet complete) in order to transfer the lines to the network purchaser;
 - (iii) the timeframes for the completion of the transfer of ownership of the local access lines and associated work, on a per area basis (if known); and
 - (iv) the number and location of the local access lines that, as at the date of the report, have been fully transferred to the network purchaser; and
 - (v) a summary of the information disseminated to retail customers and end-user customers regarding the transfer of the local access lines and any related service or network disruption.

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- Note 1** Paragraph 141A(4)(b) provides that an instrument made under subsection 141A(1) may be subject to such conditions as are specified in the instrument.
- Note 2** Paragraph 144(4)(b) provides that an instrument made under subsection 144(1) may be subject to such conditions as are specified in the instrument.

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6 Schedule 1 – Map

