

Fair Use Policy

Facilities Access Service Module

Wholesale Broadband Agreement



This document forms part of NBN Co's Wholesale Broadband Agreement, which is a Standard Form of Access Agreement for the purposes of Part XIC of the Competition and Consumer Act 2010 and constitutes nbn's Latest Standard Offer.



Fair Use Policy

Facilities Access Service Module Wholesale Broadband Agreement

Version	Description	Effective Date
5.0	First issued version of WBA 5	1 December 2023

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Environment

nbn asks that you consider the environment before printing this document.

Section 1 sets out the purpose and objectives of this Facilities Access Service Fair Use Policy.

1. Purpose and objectives

- (a) The purpose of this Facilities Access Service Fair Use Policy is to support the consistent supply of relevant products to all of **nbn**'s retail service providers and ultimately to end users as expected by both parties as at the Execution Date, recognising that the **nbn**[®] Infrastructure is a shared resource and the activities of one person can detrimentally affect the use of the **nbn**[®] Infrastructure or relevant **nbn** products or services by another person.
- (b) The objectives that this Facilities Access Service Fair Use Policy aims to meet are as follows:
 - (i) avoid adverse impacts on the quality or reliability of the **nbn**[®] Infrastructure, or the consistent supply of any relevant **nbn** products and services to all **nbn** retail service providers and ultimately to end users, by ensuring that RSP does not use, or permit others to use, **nbn**'s products or services in an excessive or unreasonable manner;
 - (ii) permit use of the **nbn**[®] Infrastructure and Facilities Access Service in accordance with the relevant terms of the WBA; and
 - (iii) enable **nbn** to deliver products and services in a commercially sustainable manner.

Section 2 sets out the application of this Facilities Access Service Fair Use Policy.

2. Application

This Facilities Access Service Fair Use Policy applies to RSP's use of the **nbn**[®] Infrastructure and Facilities Access Service. This document forms part of the Facilities Access Service Module.

*Section 3 sets out the meaning of Unfair Use and RSP obligations in relation to use of the **nbn**[®] Infrastructure and Facilities Access Service.*

3. Unfair Use

3.1 RSP obligations

- (a) RSP must not, and must ensure its Personnel do not, engage in Unfair Use.
- (b) RSP must ensure that the contracts it enters into with third parties contain valid and enforceable provisions which:
 - (i) prohibit those third parties from engaging in Unfair Use; and
 - (ii) entitle RSP to take steps to stop and/or prevent that Unfair Use (whether by way of disconnection or deactivation of equipment or suspension of the supply of the RSP Product or otherwise).
- (c) RSP must, if requested in writing by **nbn**, exercise those rights referred to in section 3.1(b)(ii) as soon as reasonably practicable to the extent necessary to stop and/or prevent Unfair Use by the third party.

3.2 Meaning of Unfair Use

In this Facilities Access Service Fair Use Policy, **Unfair Use** means use of the **nbn**[®] Infrastructure or Facilities Access Service that creates a risk to:

- (a) the integrity of the **nbn**[®] Infrastructure;
- (b) the integrity of the network, systems, equipment or facilities of RSP or any Other RSP used in connection with the **nbn**[®] Network or at the National Test Facility;
- (c) the quality or reliability of the **nbn**[®] Infrastructure, or the consistent supply of any relevant **nbn** product or service supplied by **nbn** to RSP or any Other RSP; or
- (d) the health or safety of any person,

but excludes any use of the **nbn**[®] Infrastructure or Facilities Access Service that is permitted under a Permitted Fair Use Policy Exemptions document.

Examples of conduct that may constitute Unfair Use include:

1. use of the **nbn**[®] Infrastructure or Facilities Access Service in a way that causes or may cause interference, disruption, congestion or, more generally, sub-optimal network performance; and
2. undertaking (or attempting to undertake) any of the following activities without authorisation:
 - (a) disabling, disrupting or interfering with the regular working of any service or network, including, without limitation, via means of overloading it, denial of service attacks or flooding a network;
 - (b) probing, scanning or testing the vulnerability of a system or network; or
 - (c) breaching the security or authentication measures for a service or network.

Section 4 sets out some of the consequences that may arise from RSP's non-compliance with this Facilities Access Service Fair Use Policy.

4. Non-compliance

Non-compliance with this Facilities Access Service Fair Use Policy may result in:

- (a) an immediate Ordering Freeze, Service Reduction or Suspension of an Ordered Product under clause F5 of the [Head Terms](#); or
- (b) the disconnection of RSP Equipment under clause C10 of the [Head Terms](#).