



5 June 2024

Offer relating to the use of nbn[®] Ethernet (Wireless) as an input to Downstream Priority Assistance Services

On 9 October 2023, following RSP feedback, **nbn** released a letter agreement that set out the terms and conditions on which an RSP may use **nbn**[®] Ethernet (Wireless) as an input to Downstream CSG Services.

nbn is now offering the terms and conditions on which an RSP may use **nbn**[®] Ethernet (Wireless) as an input to Downstream Wireless Priority Assistance Services and these are set out in the below letter agreement.

It is **nbn**'s expectation that any RSP who takes advantage of the below letter agreement will notify, or ensure that the relevant Downstream Service Provider notifies, each relevant Contracted End User to which a Downstream Priority Assistance Service is to be provided of any material differences between the functionality of a retail service provided using a standard telephone service that relies on a legacy network as an input and one that relies on using **nbn**[®] Ethernet (Wireless) as an input.

Next steps

Please sign and return the letter agreement to wholesale_supply@nbnco.com.au to take advantage of this offer.

Alternatively, if you would like to execute the letter using DocuSign, please request this via email to wholesale_supply@nbnco.com.au.

Your nbn account manager is ready to help your organisation with anything contained in the letter. If you have any further queries, please contact your **nbn** Account Team or wholesale_supply@nbnco.com.au.

Yours sincerely,

A handwritten signature in black ink that reads 'J. Witter'. The signature is written in a cursive, flowing style.

Jane Witter
General Manager Wholesale Supply

Confidential



Hello,

nbn[®] Ethernet (Wireless) as an input to Downstream Wireless Priority Assistance Services

We refer to the Wholesale Broadband Agreement version 5 (**WBA**) between **nbn** and RSP (**your organisation**).

Currently, the WBA prohibits RSPs from using, or permitting any Downstream Service Provider to use, **nbn[®] Ethernet (Wireless)** as an input to supply a Downstream Priority Assistance Service (see section 10.1(a) of the [nbn[®] Ethernet Product Description](#) and section 17.1 of the [nbn[®] Ethernet Product Terms](#)).

The reason for these prohibitions is that while the Wireless Network can support use by retail service providers for the supply of retail voice services, the Wireless Network's related systems, processes and workforce arrangements have not been designed to support the supply of retail Priority Assistance services that use **nbn[®] Ethernet (Wireless)** as an input (**Downstream Wireless Priority Assistance Services**).

The purpose of this letter is to set out the terms on which **nbn** agrees to remove these prohibitions for any RSP that signs this letter agreement and complies with its terms.

Confidential



Downstream Wireless Priority Assistance Services on the Wireless Network

A. Roles and responsibilities

1. The parties acknowledge and agree that, in relation to any supply of **nbn**[®] Ethernet (Wireless) on the terms of this letter agreement:
 - a. **nbn**'s role is limited to supplying **nbn**[®] Ethernet (Wireless) as an input to supply a Downstream Wireless Priority Assistance Service and **nbn** does not supply Downstream Wireless Priority Assistance Services to RSP or to Contracted End Users; and
 - b. RSP has sole responsibility for ensuring that it complies with any applicable legislative and regulatory obligations in respect of Priority Assistance in connection with the supply of Downstream Wireless Priority Assistance Services; and
 - c. the decision by RSP to use **nbn**[®] Ethernet (Wireless), or to permit a Downstream Service Provider to use an RSP Product which relies on **nbn**[®] Ethernet (Wireless), as an input to supply a Downstream Wireless Priority Assistance Service is taken entirely at RSP's own risk (as reflected in this letter agreement).
2. RSP acknowledges and agrees that:
 - a. the Wireless Network related systems, processes and workforce have not been designed to support Downstream Wireless Priority Assistance Services;
 - b. Downstream Wireless Priority Assistance Services are not Downstream Priority Assistance Services under the WBA and, accordingly, the provisions in the WBA that apply specifically in relation to Downstream Priority Assistance Services do not apply in relation to Downstream Wireless Priority Assistance Services. This includes the Service Levels, Performance Objectives and Commercial Rebates that apply for Priority Assistance Connections and Priority Assistance Fault rectifications and Priority Assistance Modifications;
 - c. **nbn** does not intend to change its systems, processes and workforce to support Downstream Wireless Priority Assistance Services. In particular, the following arrangements will not be available in respect of **nbn**[®] Ethernet (Wireless):
 - i. Priority Assistance Connections or Accelerated Connections;
 - ii. Priority Assistance Faults or Priority Assistance Incidents;
 - iii. Priority Assistance Appointments; or
 - iv. the **nbn**[®] 24/7 Priority Assistance Contact Centre; and
 - d. the liability protections in paragraphs 7 to 9 are reasonably necessary to protect **nbn**'s legitimate interests in circumstances where the waiver under paragraph 3 of this letter agreement applies.



B. PA Waiver

3. Despite section 10.1(a) of the [nbn® Ethernet Product Description](#) and section 17.1 of the [nbn® Ethernet Product Terms](#), RSP may, subject to paragraph 11 and compliance with the terms of this letter agreement:
- a. use **nbn®** Ethernet (Wireless); and
 - b. permit any Downstream Service Provider to use an RSP Product which relies on **nbn®** Ethernet (Wireless),
- as an input to supply a Downstream Wireless Priority Assistance Service.

C. RSP operational obligations

4. In respect of each Downstream Wireless Priority Assistance Service, RSP must provide to the Contracted End User, or ensure that each Downstream Service Provider provides to the Contracted End User (as applicable), an Alternative Service:
- a. as soon as reasonably practicable after agreeing to supply that Downstream Wireless Priority Assistance Service; and
 - b. for so long as the Downstream Wireless Priority Assistance Service continues to be supplied.
5. For the purposes of paragraph 4, an “**Alternative Service**” is a telecommunications service which:
- a. provides End Users with voice telephony (or a service equivalent to voice telephony where voice telephony is not practical for an End User with a disability);
 - b. meets the any-to-any connectivity test in the *Telecommunications (Consumer Protection and Service Standards) Act 1999* (Cth);
 - c. does not rely on **nbn®** Ethernet (Wireless) as an input; and
 - d. is ordinarily available for use by an End User either immediately or nearly immediately in the event of either:
 - i. a delay in connecting an **nbn®** Ethernet (Wireless) Ordered Product that is used as an input to supply a Downstream Wireless Priority Assistance Service; or
 - ii. a fault affecting an **nbn®** Ethernet (Wireless) Ordered Product that is used as an input to supply a Downstream Wireless Priority Assistance Service.
6. RSP must not do any of the following in respect of **nbn®** Ethernet (Wireless):
- a. place an order for a Priority Assistance Connection or Accelerated Connection;
 - b. submit a Priority Assistance Modification;
 - c. raise a Trouble Ticket as a Priority Assistance Fault or Priority Assistance Incident;
 - d. reserve an Appointment for a Priority Assistance Fault, Priority Assistance Connection or Accelerated Connection; or
 - e. telephone the **nbn®** 24/7 Priority Assistance Contact Centre.



D. Liability

7. Subject to clause E1.6 of the [Head Terms](#) and despite anything to the contrary in clauses E2.3(b) and (c) of the [Head Terms](#), RSP must pay to **nbn**, on demand, an amount equal to all Losses suffered or incurred by **nbn**, any Related Body Corporate of **nbn**, or their respective Personnel, arising from or in connection with:
- a. the death or personal injury of any person to the extent that death or personal injury is caused or contributed to by the supply, failure to supply or an error or defect in the supply, of a Downstream Wireless Priority Assistance Service; or
 - b. without limiting E2.5(c) of the [Head Terms](#), any Downstream Claim arising from or in connection with the supply, failure to supply or an error or defect in the supply, of a Downstream Wireless Priority Assistance Service of which **nbn** has given notice to RSP of the Downstream Claim, regardless of whether:
 - i. RSP has delivered to **nbn** an Assignment of a Model Undertaking;
 - ii. RSP has taken any other steps which have the effect of placing **nbn**, any Related Body Corporate of **nbn**, and their respective Personnel in a position in respect of such Losses that is no worse than the position they would have been in had RSP delivered to **nbn** a binding Assignment in accordance with clause E2.5 of the [Head Terms](#); or
 - iii. RSP could lawfully have excluded or limited such Losses in its arrangements with Downstream Service Providers, Contracted End Users or third parties.
8. Subject to paragraph 9, RSP acknowledges and agrees, including for the purposes of clause E2.3(a) of the Head Terms, that:
- a. any supply of **nbn**[®] Ethernet (Wireless) as an input to a Downstream Wireless Priority Assistance Service on the basis set out in the WBA or this letter agreement will not, on its own, constitute a negligent or wilful act or omission by **nbn**; and
 - b. any failure by **nbn** to achieve a Service Level or Performance Objective in connection with the supply of **nbn**[®] Ethernet (Wireless) as an input to a Downstream Wireless Priority Assistance Service will not, on its own, constitute a negligent or wilful act or omission by **nbn**.
9. To avoid doubt, nothing in paragraph 8 affects RSP's entitlement to any Commercial Rebates that apply in connection with any failure by **nbn** to meet a Service Level or Performance Objective for a Service supplied under the WBA or this letter agreement except that, in accordance with paragraph 2.b, the Service Levels and Performance Objectives that apply to Downstream Priority Assistance Services will not apply to the supply of Downstream Wireless Priority Assistance Services.

E. Term and termination

10. This letter agreement commences on the date that this letter agreement is executed by the last party to sign it and terminates on the earlier of:
- a. the WBA version 5 between **nbn** and RSP terminating or expiring; and
 - b. 30 November 2026,
- (the **Term**).



11. **nbn** may, acting reasonably, set a date from which the waiver in paragraph 3 will cease to be available (**Sunset Date**) by giving 3 months' notice to RSP, provided that **nbn** first reasonably consults with RSP before giving such notice. On and from the Sunset Date:
 - a. the waiver in paragraph 3 will continue to apply in respect of each **nbn**[®] Ethernet (Wireless) Ordered Product that:
 - i. was supplied to RSP for use as an input to a Downstream Wireless Priority Assistance Service (as notified by RSP to **nbn**) prior to the Sunset Date; and
 - ii. continues to be supplied as an input to a Downstream Wireless Priority Assistance Service continuously on and from the Sunset Date, (**Grandfathered Service**); and
 - b. the waiver in paragraph 3 will not apply, and section 10.1(a) of the [nbn[®] Ethernet Product Description](#) and section 17.1 of the [nbn[®] Ethernet Product Terms](#) will apply in accordance with their terms, for each **nbn**[®] Ethernet (Wireless) Ordered Product that is not a Grandfathered Service.

F. General

12. Unless otherwise specified, capitalised terms used in this letter agreement have the meanings given to those terms in the WBA.
13. On request by a party, each party will use all reasonable endeavours to consult with the other party prior to making:
 - a. an initial public statement in respect of any incident relating to an individual Downstream Wireless Priority Assistance Service supplied by RSP; or
 - b. a subsequent public statement in respect of that Downstream Wireless Priority Assistance Service that differs significantly in substance to that of the initial statement, or if consultation in respect of that initial statement did not occur,provided that the requested consultation is reasonable in all the circumstances. For clarity, if a party has been requested to consult with the other party in relation to an initial public statement regarding a Downstream Wireless Priority Assistance Service, that party will not be required to consult with the other party prior to responding to follow up questions in relation to the Downstream Wireless Priority Assistance Service provided that the substance of the follow up statements do not differ significantly to that of the initial statement. Nothing in this clause requires a party to consult where that would be inconsistent with its obligations at law.
14. Except as expressly specified, this letter agreement does not vary the WBA.
15. Nothing in this letter affects the accrued rights and liabilities of either party under the WBA.
16. Rights or obligations which expressly or impliedly, by their nature, survive expiry or termination of this letter agreement, will survive expiry or termination of this letter agreement.
17. Clauses H4.5 (Electronic execution and counterparts), H4.10 (Governing law and jurisdiction), H4.13 (Severability) and H4.15 (Waiver) of the [Head Terms](#) are incorporated into this letter agreement as though set out in full, with references to "Agreement" being read as references to this letter agreement.



18. Nothing in this letter agreement is intended, or should be construed, as overriding or replacing any obligations that your organisation may have under any applicable Law.

Yours sincerely

Jane Witter
General Manager, Wholesale Supply