

Fair Use Policy

Facilities Access Service Module

Wholesale Broadband Agreement





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Version	Description	Effective Date
4.0	First issued version of WBA 4	1 December 2020

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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**TM Infrastructure is a shared resource and the activities of one person can detrimentally affect the use of the **nbn**TM 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**TM 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**TM 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**TM 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**TM 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**TM Infrastructure or Facilities Access Service that creates a risk to:

- (a) the integrity of the **nbn**TM Infrastructure;
- (b) the integrity of the network, systems, equipment or facilities of RSP or any Other RSP used in connection with the **nbn**TM Network or at the National Test Facility;
- (c) the quality or reliability of the **nbn**TM 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**TM 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**TM 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](#).