


Commonwealth of Australia

Telecommunications Act 1997

Telecommunications (Local Access Lines Exemption—SmartFarmNet) Instrument 2020

I, PAUL FLETCHER, Minister for Communications, Cyber Safety and the Arts make the following Instrument under subsection 141A(2) and subsection 144(2) of the *Telecommunications Act 1997*.

Dated 13 March 2020.



PAUL FLETCHER
Minister for Communications, Cyber Safety and the Arts

1 Name of Exemption Instrument

This Instrument is the *Telecommunications (Local Access Lines Exemption — SmartFarmNet) Instrument 2020*.

2 Commencement

This Instrument commences on the day it is signed.

3 Cessation

This Instrument ceases to have effect on 12 March 2050.

4 Definitions

In this Instrument:

Act means the *Telecommunications Act 1997* (Cth).

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

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associated entity has the same meaning as in section 50AAA of the *Corporations Act 2001* (Cth).

dark optical fibre means an unlit strand of optical fibre that is terminated on an optical distribution frame.

designated real estate development project means a project that involves:

- (a) the subdivision of one or more areas of land in Australia into lots (however described); and
- (b) either or both of the following:
 - (i) the making available of one or more of those lots for sale or lease, where it would be reasonable to expect that one or more building units would be subsequently constructed on the lots; or
 - (ii) the construction of one or more building units on any of the lots and the making available of any of those building units for sale or lease.

NBN Co means NBN Co Limited (ACN 136 533 741).

national broadband network has the same meaning as in section 5 of the *National Broadband Network Companies Act 2011* (Cth).

optical distribution frame means a piece of telecommunications equipment capable of providing cable interconnections between communications facilities.

SmartFarmNet means Technomics International Pty Limited (ACN 085 129 915).

Note As at the date this Instrument commences, Technomics International Pty Limited uses the registered business name, SmartFarmNet.

SmartFarmNet Dark Fibre Service means a carriage service that:

- (a) is offered to be supplied on a wholesale basis; and
- (b) provides access to a dark optical fibre capable of facilitating the supply of a carriage service; and
- (c) supplied using one or more SmartFarmNet Fibre Lines.

SmartFarmNet Fibre Lines means optical fibre local access lines forming part a telecommunications network to the extent that the lines:

- (a) are owned and operated by SmartFarmNet; and
- (b) are located or proposed to be located within Australia in an area that is not an area of land within the whole or any part of:
 - (i) a network footprint of the fixed-line national broadband network or a third party superfast fixed-line network where that footprint was in existence immediately before the commencement of this Instrument; and

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- (ii) the planned fixed-line footprint of the national broadband network or a third party superfast fixed line network, as published from time to time on NBN Co's website; and
 - (iii) an area of land within a designated real estate development project, to the extent that the civil works associated with the project began to be carried out in the area at any time on or after the commencement of this Instrument; and
- (c) or parts of local access lines located outside any of the areas referred to in subparagraphs (i), (ii) or (iii) above, but only to the extent that local access lines are necessary for the provision of carriage services to premises situated inside those areas.

SmartFarmNet Co means Technomics International Pty Limited (ACN 085 129 915).

Note As that the date this Instrument commences, Technomics International Pty Limited uses the registered business name, SmartFarmNet.

third party superfast fixed-line network means a fixed-line telecommunications network that is or is capable of providing superfast carriage services and is owned by an entity other than SmartFarmNet or any of its associated entities.

Note 1 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*
- *building unit*
- *carriage service*
- *line*
- *local access line*
- *optical fibre line*
- *sale*
- *subdivision*
- *superfast carriage service*
- *telecommunications network*

5 Exemptions

- (1) Subject to the conditions set out in subclause (2), and pursuant to subsections 141A(2) and 144(2) of the Act, the SmartFarmNet Fibre Lines are exempt from sections 141 and 143 of the Act.
- (2) The exemptions are subject to the following conditions:
 - (a) within 14 days after the commissioning of any telecommunications networks by SmartFarmNet which include SmartFarmNet Lines, SmartFarmNet must provide the ACCC with an estimate of the number of end-users situated (or to be situated) in the particular network's footprint.

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(b) SmartFarmNet must:

- (i) within 14 days of the first supply by SmartFarmNet of a carriage service using SmartFarmNet Lines, publish on its website, the terms and conditions (price and non-price) on which it offers and supplies access to the SmartFarmNet Dark Fibre Service (*reference offer*); and
- (ii) each time it enters into an agreement with an access seeker for the supply of the SmartFarmNet Dark Fibre Service using SmartFarmNet Fibre Lines, where the terms and conditions are not the same as those set out in reference offer, SmartFarmNet must provide to the ACCC within 14 days of entering into the agreement:
 - (A) the identity of the parties to the agreement; and
 - (B) a statement of the differences between the terms and conditions set out in the agreement and the terms and conditions published on its website; and
- (iii) each time it implements a material change to either the reference offer or the product specification for the SmartFarmNet Dark Fibre 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.

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.