

Commonwealth of Australia

Telecommunications Act 1997

**Telecommunications (Network Exemption—
Telstra South Brisbane Network) Instrument 2012
(Amendment No. 1 of 2013)**

I, MALCOLM BLIGH TURNBULL, Minister for Communications, make the following Instrument under subsection 141A (1) and subsection 144 (1) of the *Telecommunications Act 1997*, and subsection 33(3) of the *Acts Interpretation Act 1901*.

Dated 18/12/ 2013.



MALCOLM BLIGH TURNBULL
Minister for Communications

1 Name of Instrument

This Instrument is the *Telecommunications (Network Exemption—Telstra South Brisbane Network) Instrument 2012 (Amendment No. 1 of 2013)*.

2 Commencement

This Instrument commences on the day it is signed.

3 Variation

The *Telecommunications (Network Exemption—Telstra South Brisbane Network) Instrument 2012* is varied as set out in the Schedule to this Instrument.

Schedule	Detail of Amendments
	(clause 3)

[1] Clause 2, Cessation

Substitute

This Instrument ceases to have effect on 31 December 2015.

[2] Note 1 at the end of Clause 2

Substitute

This instrument commenced on 12 April 2012.

[3] Paragraph 4(2)(b), Exemptions

Substitute

(b) Telstra must, at all times until 30 September 2014:

- (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 A*), and the price terms and conditions of reference offer A must be substantively the same as the terms and conditions set out in Schedule 2 to this Instrument; 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 A, Telstra must provide to the ACCC within 14 days of entering into the agreement:
 - (A) the identity of the parties to the agreement; and
 - (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 terms and conditions comprising reference offer A or the product specification for the Fibre Access Broadband Service, provide the following information to the ACCC within 14 days of implementing the change:

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- (A) the nature of the change; and
 - (B) the date the change took effect; and
- (c) Telstra must, at all times from 1 October 2014 and until 31 December 2015:
 - (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
 - (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.

[4] Immediately after Schedule 1, new Schedule 2

Insert

Schedule 2 –Reference Offer

1 General

1.1 This Schedule 2 sets out the price terms and price conditions applicable for the Fibre Access Broadband Service supplied over the Telstra South Brisbane Network, referred to in this Schedule 2 as the "FAB-L2IG Service".

1.2 The pricing structure for the South Brisbane FAB-L2IG Service is as follows:

- (a) Monthly Charges for each End User Access;
- (b) Charges for Broadband Virtual Local Area Networks (VLANs) (as applicable); and
- (c) miscellaneous Charges.

1.3 Rebates may apply in accordance with paragraph 5 of this Schedule 2.

2 End User Accesses

2.1 [Customer] must pay Telstra the relevant monthly Charge for each End User Access based on the transmission rate selected by [Customer] for that End User Access, as set out in Table 1 of this Schedule 2.

Table 1 - Monthly Charges for each End User Access

Transmission rate*	Up to 8 Mbps downstream and up to 384 kbps upstream	Up to 30 Mbps downstream and up to 1 Mbps upstream	Up to 100 Mbps downstream and up to 5 Mbps upstream (except where there is an external ONT) **
Charge for each End User Access	\$28	\$35	\$50

*A reference to a transmission rate in this Schedule 2 is a reference to a maximum transmission capability, and is not a guarantee that the transmission rate will be achieved. In particular, the actual data transmission rate that can be achieved is likely to be less than the maximum transmission capability because of Network configuration, dimensioning, overhead, Customer Premises interference, CPE limitations, method of data transmission, Exchange type, an external Optical Network Terminal (ONT), hardware and software configuration and other technical reasons. Further explanation of the technical limitations of the FAB-L2IG Service is included in the Technical Specifications.

**Where there is an external ONT and [Customer] has requested an End User Access with a data transmission rate of "up to 100Mbps downstream and up to 5Mbps upstream", the data transmission rate will be up to 93Mbps downstream and up to 5Mbps upstream.

3 Broadband VLANs

- 3.1 If [Customer] has an existing Broadband VLAN in a State¹ and, will aggregate DSL-L2IG and FAB-L2IG End User traffic for that State on that Broadband VLAN:
- (a) [Customer] must pay Telstra the Charges for a “DSL VLAN” as set out in Schedule 2 of [Customer]’s DSL- L2IG Service Schedule; and
 - (b) the Broadband VLAN Charges set out in this paragraph 3 of this Schedule 2 will not apply to those existing Broadband VLANs.
- 3.2 If [Customer] does not:
- (a) acquire DSL-L2IG Services in a State;
 - (b) have an existing Broadband VLAN in a State; or
 - (c) aggregate DSL-L2IG and FAB-L2IG End User traffic for a State on its existing Broadband VLANs in accordance with paragraph 2.2 of Part B,

then [Customer] must pay Telstra a monthly Charge for each new Broadband VLAN calculated as follows:

Broadband VLAN Charge (monthly) = Subscribed Data Speed Charge x No. of

Ethernet Accesses where:

Subscribed Data Speed Charge is the Charge listed in Table 2 of this Schedule 2 that corresponds to the subscribed data speed of the Ethernet Accesses in the Broadband VLAN; and

No. of Ethernet Accesses is the number of Ethernet Accesses acquired by [Customer] over which the Broadband VLAN is provisioned (in accordance with the guidelines in the Technical Specifications for the access option chosen by [Customer] for the Broadband VLAN).

Table 2 –Subscribed Data Speed Charges

Subscribed Data Speed	Subscribed Data Speed Charge
20 Mb/s	<p>If [Customer] has a DSL-L2IG Service Schedule, the Charges are the same as the equivalent VLAN Subscribed Data Speed Charges in Schedule 2 of [Customer]’s DSL-L2IG Service Schedule. Any variation to those Charges in the DSL-L2IG Service Schedule is automatically applied to this Table 2 of this Schedule 2.</p> <p>If [Customer] does not have a DSL-L2IG Service Schedule, the Charges are Price On Application.</p>
50 Mb/s	
75 Mb/s	
100 Mb/s	
125 Mb/s	
150 Mb/s	
200 Mb/s	
250 Mb/s	
300 Mb/s	
350 Mb/s	
400 Mb/s	
450 Mb/s	
500 Mb/s	
550 Mb/s	

¹ Where [Customer] acquires Services under a DSL-L2IG Service Schedule in the same State as its FAB-L2IG Services, and uses Broadband VLAN(s) to carry its DSL-L2IG traffic in that State, [Customer] may aggregate its FAB-L2IG Service traffic with its DSL-L2IG Service traffic in that State into those Broadband VLAN(s). [Customer] is responsible for dimensioning its Broadband VLAN(s) for both the FAB-L2IG Service traffic and the DSL-L2IG Service traffic.

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600 Mb/s	
700 Mb/s	
800 Mb/s	
900 Mb/s	
1,000 Mb/s	

4 Miscellaneous Charges

- 4.1 [Customer] must pay Telstra the miscellaneous Charges (as applicable) set out in Table 3 of this Schedule 2.
- 4.2 The “Activation Charge” set out in Table 3 of this Schedule 2 does not apply to:
- (a) the Migration of an End User Access located in the South Brisbane Exchange Service Area (SBX ESA); or
 - (b) the provisioning of a new End User Access located in the SBX ESA completed on or before the End Date.²
- 4.3 The “Early termination Charge if the End User Access is disconnected within 6 months of the relevant End User Access being activated” set out in Table 3 of this Schedule 2 does not apply to Migrated End User Accesses located in the SBX ESA.
- 4.4 The Charge to “install battery back-up option to alternating current (AC) power supply unit (PSU) (excluding supply of battery) at time of initial installation” and the Charge to “replace existing PSU with a PSU with battery back-up (excluding supply of battery) after initial installation” set out in Table 3 of this Schedule 2 do not apply to Migrated End User
- Accesses located in the SBX ESA in respect of the first replacement of the Power Supply Unit (PSU) after the Migration of the End User Access only, but do apply for any subsequent replacements.
- 4.5 [Customer] must pay the Fast Fix Charge set out in Table 3 for each request for Fast Fix on an individual South Brisbane FAB-L2IG Service unless paragraph 4.6 of this Schedule 2 applies.
- 4.6 If:
- (a) Telstra does not repair the individual South Brisbane FAB-L2IG Service within 24 hours of [Customer] notifying Telstra of the fault and requesting Fast Fix; or
 - (b) the fault is in Telstra’s Network or Telstra Equipment,
- then unless one of the exceptions in paragraph 4.7 of this Schedule 2 applies, Telstra will waive the Fast Fix Charge for that Fast Fix request.
- 4.7 Telstra will not waive the Fast Fix Charge under paragraph 4.6 of this Schedule 2 if Telstra’s ability to repair the fault is affected by:
- (a) a fault with the individual South Brisbane FAB-L2IG Service that is caused by [Customer], a Reseller or an End User;
 - (b) the cutting of cable or fibre which is needed to provide the individual South Brisbane FAB-L2IG Service by [Customer], a Reseller, an End User or someone on [Customer]’s behalf;

² **End Date** means 30 September 2014. Due to limitations with Telstra’s billing systems the Activation Charge will appear on [Customer]’s Bill, but will be credited on a subsequent Bill.

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- (c) interference or damage to Telstra Equipment or Telstra's Network by [Customer], a Reseller, an End User or by a third party on [Customer]'s behalf; or
- (d) [Customer], a Reseller or an End User not giving Telstra sufficient and timely access to premises and Telstra Equipment so that Telstra can carry out the repair or restoration, including in situations where [Customer], an End User or a person authorised by an End User is Not in Attendance.

Table 3 - Miscellaneous Charges

Description	Charge per individual request
Activation Charge	\$22.50 Charge is waived for Migrating Services or new End User Accesses in the SBX ESA (but, in relation to new End User Accesses, will appear on [Customer]'s Bill and be credited on a subsequent [Customer] Bill).
Charge for installation of an ONT	As set out in [Customer]'s Our Customer Terms (OCT) and Declared Services Service Schedule. Charge is waived for Migrating Services and new End User Accesses located in the SBX ESA.
Early termination Charge if the End User Access is disconnected within 6 months of the relevant End User Access being activated	\$50 Charge is waived in accordance with paragraph 4.3 of this Schedule 2 for Migrations in the SBX ESA.
Charges for rejects, withdrawals and retargets associated with a Migration request via LinxOnline Ordering (LOLO) / LinxOnline Interactive Gateway (LOLIG)	A Charge advised by Telstra to [Customer] on 20 Business Days notice
Charge to change the configuration of an End User Access (port data transmission rate is increased or decreased or configuration of the End User's session is changed)	\$10
Charge for an incorrect call out and fee for service where a Telstra technician attends	Charged on a time and materials basis in accordance with the Fee-for-service section in OCT
Charge for Not In Attendance	\$90

Description	Charge per individual request
Charge for an incorrect fault report to the Telstra Fault Reporting Centre (FRC)	\$50
Charge when an End User directly calls the Telstra FRC for assistance	\$50
Service qualification (where required) per End User Access	\$0
Charge to install battery back-up option to AC PSU (excluding supply of battery) at time of initial installation	As set out in [Customer]'s OCT and Declared Services Service Schedule. Charges are waived in accordance with paragraph 4.4 of this Schedule 2 for Migrated End User Accesses located in the SBX ESA.

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Charge to replace existing PSU with a PSU with battery back-up (excluding supply of battery) after initial installation	As set out in [Customer]'s OCT and Declared Services Service Schedule. Charges are waived in accordance with paragraph 4.4 of this Schedule 2 for Migrated End User Accesses located in the SBX ESA.
Charge for Telstra-Managed Managed Data Network (MDN) Feature	\$155 per month
Charge for Partially Telstra-Managed MDN Feature	\$200 per month
Charge for Customer-Managed MDN Feature	\$500 per month
Charge for transferring a Broadband VLAN from one N-K Number to another N-K Number, or from one Ethernet Access to another Ethernet Access, at [Customer]'s request	A Charge advised by Telstra to [Customer] on 20 Business Days notice
Charge for [Customer] or [Customer]'s Group maintaining more than one N-K Number	A Charge advised by Telstra to [Customer] on 20 Business Days notice
Fast Fix Charge	\$53.64
Charge for a FAB Transfer Request via LOLO/LOLIG	\$22.50
Charge for a Reversal of a FAB Transfer Request via LOLO/LOLIG (payable by the losing service provider of the original Transfer Request, i.e. the party initiating the reversal)	\$22.50

5 Migration Rebates

South Brisbane Migration Rebate

- 5.1 Subject to paragraph 5.12 and where [Customer] meets the requirements set out in paragraph 5.2 of this Schedule 2, and until the End Date, Telstra will give [Customer] a monthly rebate of \$10 for each new End User Access and Migrated End User Access located in the South Brisbane Exchange Service Area ("**South Brisbane Migration Rebate**").
- 5.2 For each month up to and including the month in which the End Date occurs, [Customer] will qualify for and receive the South Brisbane Migration Rebate for all End User Accesses at End User Premises located in the SBX ESA which have been:
- (a) successfully Migrated by the end of that billing month; or
 - (b) newly connected by the end of that billing month.

South Brisbane Eligible FAB Rebate

- 5.3 Subject to paragraphs 5.5, 5.12 and 5.14 of this Schedule 2, where [Customer] meets the requirements set out in paragraph 5.4 of this Schedule 2, and until the End Date, Telstra will give [Customer] a monthly rebate of:
- (a) \$13 for each:
 - (i) newly connected 30Mbps Service with an End User Access in the South Brisbane Exchange Service Area; or
 - (ii) DSL-L2IG Service End User Access in the South Brisbane Exchange Service Area which is Migrated to become a 30Mbps Service;

and

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- (b) \$6 for each:
 - (i) newly connected 8Mbps Service with an End User Access in the SBX ESA; or
 - (ii) DSL-L2IG Service End User Access in the SBX ESA which is Migrated to become a 8Mbps Service,

("South Brisbane Eligible FAB Rebate"). The South Brisbane Eligible FAB Rebate applies in addition to the South Brisbane Migration Rebate.

- 5.4 For each billing month up to and including the month in which the End Date occurs, [Customer] will qualify for and receive the South Brisbane Eligible FAB Rebate for each 8Mbps Service or 30Mbps Service with an End User Access in the SBX ESA which has been newly connected or Migrated in accordance with paragraph 5.3 above by the end of that billing month.
- 5.5 If a newly connected 8Mbps Service or 30Mbps Service forms part of an Eligible Bundle, then such Service may qualify for the South Brisbane Eligible Bundle Rebate (subject to paragraphs 5.6 to 5.8 below) but will not qualify for the South Brisbane Eligible FAB Rebate.

South Brisbane Eligible Bundle Rebate

- 5.6 Subject to paragraphs 5.8, 5.12 and 5.14 of this Schedule 2, where [Customer] meets the requirements set out in paragraph 5.7 of this Schedule 2 and until the End Date, Telstra will give [Customer] a monthly rebate of:
 - (a) \$19.60 for each newly connected Eligible Bundle (Residential) that includes a 8Mbps Service;
 - (b) \$26.60 for each newly connected Eligible Bundle (Residential) that includes a 30Mbps Service;
 - (c) \$20.77 for each newly connected Eligible Bundle (Business) that includes a 8Mbps Service; and
 - (d) \$27.77 for each newly connected Eligible Bundle (Business) that includes a 30Mbps Service,

("South Brisbane Eligible Bundle Rebate"). The South Brisbane Eligible Bundle Rebate applies in addition to the South Brisbane Migration Rebate and to newly connected 8Mbps Services and newly connected 30Mbps Services only. The South Brisbane Eligible Bundle Rebate is not available for Migrations.

- 5.7 For each billing month up to and including the month in which the End Date occurs, [Customer] will qualify for and receive the South Brisbane Eligible Bundle Rebate for each newly connected Eligible Bundle which has been provisioned by the end of that billing month.
- 5.8 If the Telstra Basic Telephone Service forming part of the Eligible Bundle is transferred to a service provider other than [Customer] at any time, the South Brisbane Eligible Bundle Rebate will no longer apply from the date of such transfer (however, subject to paragraph 5.14 of this Schedule 2, from the date of such transfer [Customer] may be eligible for the South Brisbane Eligible FAB Rebate in accordance with paragraph 5.3 and/or the South Brisbane Migration Rebate in accordance with paragraphs 5.1 and 5.2 of this Schedule 2).

General

- 5.9 [Customer] acknowledges that due to Telstra's automatic billing practices, the rebates and credits payable by Telstra to [Customer] under this paragraph 5 of Schedule 2 may not appear on the first Bill for the South Brisbane FAB-L2IG Service following a billing period during which [Customer] acquired a Service to which a rebate or credit

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applies, but will appear on a subsequent Bill for the South Brisbane FAB-L2IG Service.

- 5.10 Any rebate or credit payable by Telstra under this paragraph 5 of Schedule 2 will be paid by Telstra as a credit against [Customer]'s Bill for the FAB-L2IG Services. The parties may agree alternative methods by which Telstra pays [Customer] rebates and credits.
- 5.11 [Customer] must not, and has no right to, withhold payment of any amounts in respect of any rebate or credit payable by Telstra under this paragraph 5 of Schedule 2. No rebate or credit payable by Telstra is redeemable for cash.
- 5.12 Telstra is not obliged to credit [Customer] any rebate or credit amounts unless [Customer] has paid Telstra all Charges which apply to an applicable Migration or connection, and has no overdue amounts outstanding on any of its accounts with Telstra which relate to Services provided under this Schedule, excluding Charges which are the subject of a genuine Billing Dispute.
- 5.13 Subject to paragraphs 5.5, 5.8 and 5.14 of this Schedule 2, the rebates and credits payable by Telstra under this paragraph 5 of Schedule 2 are cumulative, subject to the terms of this Service Schedule. [Customer] may qualify for any and all of them.
- 5.14 To avoid doubt, if an End User Access is cancelled or transferred to a service provider other than [Customer] at any time, the South Brisbane Migration Rebate, South Brisbane Eligible FAB Rebate and the South Brisbane Eligible Bundle Rebate will not apply in respect of that End User Access from the date of cancellation or transfer.

6 Validity Period of the Charges

- 6.1 Subject to paragraph 6.2 of this Schedule 2, the Validity Period of the Charges in this Schedule 2 is on and from the Schedule Date up to and including 30 September 2014.
- 6.2 There is no Validity Period applicable:
- (a) to the Fast Fix Charge set out in Table 3 of this Schedule 2;
 - (b) to the Subscribed Data Speed Charges set out in Table 2 of this Schedule 2; or
 - (c) for an incorrect call out or fee for service charge set out in Table 3. The incorrect call out or fee for service Charges are the charges set out in OCT, as varied from time to time by Telstra.

7 GST

- 7.1 The Charges set out in this Schedule 2 are exclusive of any applicable GST. The amount of GST payable by [Customer] to Telstra for the South Brisbane FAB-L2IG Service and associated work referred to in this Schedule 2 will be calculated in accordance with the terms of this Agreement and included in the Bill which sets out the Charges payable by [Customer] to Telstra for the supply of such South Brisbane FAB-L2IG Services and associated work.
- 7.2 The parties acknowledge and agree that any rebate or credit amounts payable by Telstra are:
- (a) an adjustment to the consideration that Telstra previously received or will receive in respect of taxable supplies that it has made; and
 - (b) an adjustment event or adjustment for the purposes of Subdivision 19-A and Subdivision 19-B of the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

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- 7.3 Subject to receiving a tax invoice or adjustment note as appropriate, [Customer] must pay the GST amount to Telstra when it is liable to pay the GST amount to Telstra for taxable supplies or adjustments to taxable supplies pursuant to this Agreement.