

Fair Use Policy

Sandpit Module

Wholesale Broadband Agreement





Fair Use Policy

Sandpit Module

Wholesale Broadband Agreement

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

Copyright

This document is subject to copyright and must not be used except as permitted below or under the Copyright Act 1968 (Cth). You must not reproduce or publish this document in whole or in part for commercial gain without the prior written consent of **nbn**. You may reproduce and publish this document in whole or in part for educational or non-commercial purposes as approved by **nbn** in writing.

Copyright © 2020 nbn co limited. All rights reserved. Not for general distribution.

Disclaimer

This document is provided for information purposes only. The recipient must not use this document other than with the consent of **nbn** and must make its own inquiries as to the currency, accuracy and completeness of this document and the information contained in it. The contents of this document should not be relied upon as representing **nbn**'s final position on the subject matter of this document, except where stated otherwise. Any requirements of **nbn** or views expressed by **nbn** in this document may change as a consequence of **nbn** finalising formal technical specifications, or legislative and regulatory developments.

Environment

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

Section 1 sets out the purpose and objectives of this Sandpit Fair Use Policy.

1. Purpose and objectives

- (a) The purpose of this Sandpit 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 Sandpit 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, 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 Sandpit 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 Sandpit Fair Use Policy.

2. Application

This Sandpit Fair Use Policy applies to RSP's use of the **nbn**TM Infrastructure and Sandpit. This document forms part of the Sandpit Module.

*Section 3 sets out the meaning of Unfair Use and RSP obligations in relation to use of the **nbn**TM Infrastructure and Sandpit.*

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 Sandpit Fair Use Policy, **Unfair Use** means use of the **nbn**TM Infrastructure or Sandpit 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 Sandpit 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 Sandpit 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 Sandpit Fair Use Policy.

4. Non-compliance

Non-compliance with this Sandpit 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](#).