



Australian Government

**Department of Communications,
Information Technology and the Arts**

**Broadband Connect
Program Guidelines**

**December 2006
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and 1 December 2006)**

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1 Introduction

1.1 What is Broadband Connect?

Broadband Connect is an \$878 million program of the Australian Government that encourages the roll-out of broadband services in regional Australia at prices that are comparable to metropolitan services. The Program builds on the success of the Higher Bandwidth Incentive Scheme (HiBIS).

HiBIS was a key part of the Government's response to the 2002 Regional Telecommunications Inquiry (RTI). The RTI was commissioned to carry out an independent assessment of the adequacy of telecommunications services in regional, rural and remote Australia. A specific term of reference was to assess barriers to accessing Higher Bandwidth Services in regional and rural areas. The RTI determined that while all Australians have access to broadband via at least one platform, those in regional, rural and remote areas were disadvantaged because they had to pay prices well above those prevailing in metropolitan areas. The RTI found that:

Finding 6.4

The major impediment to regional, rural and remote Australians having equitable access to higher bandwidth services is the higher prices that users in some areas pay for these services.

Recommendation 6.3 of the RTI was that:

The Government should establish an incentive scheme for the provision of higher bandwidth services to regional, rural and remote areas, to enable all Australians to have access to services at prices comparable to those prevailing in metropolitan areas.

In August 2005, the Australian Government announced its new \$1.1 billion Connect Australia package, consisting of four programs to roll out affordable broadband to people living in regional, rural and remote areas, extend mobile phone coverage, build new regional communications networks and set up vital telecommunications services for remote Indigenous communities. The Connect Australia package included \$878 million for Broadband Connect, which will be administered by the Department of Communications, Information Technology and the Arts (DCITA). Broadband Connect commenced on 1 January 2006 and continues the per customer incentive payment model of HiBIS.

In implementing Broadband Connect, the Australian Government is seeking to promote competition to support equitable pricing on an on-going basis and in a technology-neutral manner.

The primary goal of Broadband Connect is to provide equitable access to Higher Bandwidth Services across regional Australia.

In pursuit of this goal, Broadband Connect has two supporting objectives:

- (a) to promote competition among Higher Bandwidth Service providers; and
- (b) to ensure efficient use of public funds by effectively targeting support to areas of need in regional Australia.

These Guidelines apply to the operation of Broadband Connect from 1 July 2006 to 30 June 2007. In large part, they replicate the Guidelines introduced on 1 January 2006.

1.2 Purpose of the Program Guidelines

These Broadband Connect Guidelines describe the key elements of the operation of Broadband Connect, including the customer eligibility requirements, the registration process for Providers and Broadband Connect Services, and the processes for providing customers with Broadband Connect Services.

It should be noted, however, that these Guidelines are solely a guide to Broadband Connect. Legal enforcement of the Broadband Connect operational rules will be through the Deed between Providers and DCITA, and in the contracts that Providers are required to establish with their Broadband Connect Customers. In the event of any inconsistency between the Deed and the Guidelines, the Deed will prevail.

1.3 Key concepts and terminology

The Guidelines include reference to a number of terms, many Broadband Connect-specific, which are defined below.

1.3.1.1 A

Access and availability, in relation to ISDN or Higher Bandwidth Services, is assessed on the basis of whether a connection was able to be provided, regardless of whether a connection was in fact provided. For example, premises are regarded as having access to an ADSL service if within range of an ADSL enabled exchange, even if no telephone line is connected to the premises (assuming no other technological limitations and that a telephone line could have been connected on application and payment of the standard (prescribed) fee to Telstra or another provider). Any doubt as to access or availability is to be referred to DCITA, and DCITA will make a determination.

ACMA means the Australian Communications and Media Authority.

Added Value Service means a Service registered for supply in a Service Area in which a Threshold Service has been registered and which provides actual peak and average Data Speeds not less than those required for the Threshold Service as well as additional functionality or features, over and above requirements (a) and (e) through to (i) of the definition for a Threshold Service.

Applicants must register at least one Added Value Service which is to be provided over the same Service Solution that delivers the Applicant's Threshold Service. This Added Value Service must provide a peak Data Speed of at least 512 kbps to the Customer and 128 kbps from the Customer and a minimum monthly usage allowance (download and upload) of at least 1 GB.

Added Value Services must satisfy the Data Speed requirements specified in the Applicant's description of the Service. All Added Value Services will be subject to testing as described in section 4.6.

ADSL means Asymmetric Digital Subscriber Line.

Allowable Costs means that portion of costs incurred by a Service Provider or an Infrastructure Provider in providing Services or Wholesale Services against which Incentive Payments may be allocated. (See sections 4.13.11 and 4.13.12 for further information on Allowable Costs).

Applicant means a service provider or wholesale service provider who is applying to become a registered Provider under the Broadband Connect program.

B

Broadband Connect means the Broadband Connect program.

Broadband Connect Area means all of Australia other than the Metropolitan Exclusion Area and, unless otherwise prescribed for the purposes of section 8B of the *Telecommunications (Consumer Protection and Service Standards) Act 1999* (the Consumer Protection Act), External Territories.

Broadband Connect-compliant Pricing means pricing for a particular Higher Bandwidth Service that meets the price requirements of a Threshold Service or the equivalent Added Value Service.

Broadband Connect Customer or **Customer** means an Eligible Customer with whom a Service Provider has a contract to supply a Service.

Broadband Connect Demand Register or **Demand Register** means the demand register available at Broadband Connect Online that allows Eligible Customers to register their interest in being supplied with a Service.

Broadband Connect Online means the portion of the DCITA website dealing with Broadband Connect, and the information and program management tools provided at that site.

Broadband Connect Premises or **Premises** means Eligible Premises to which a Provider is supplying a Service.

Broadband Connect Service or **Service** means an Internet access service meeting the performance and pricing requirements of Broadband Connect (described in section 4.6) that is registered under the Program and included for supply by a Provider under its Deed.

Broadband Connect Terms and Conditions or **Terms and Conditions** means the terms and conditions on which a Service is supplied by a Service Provider to a Customer, including mandatory terms and conditions required under the Program.

Business means an enterprise with an Australian Business Number which is undertaking a commercial activity on a going concern basis, or which is engaged in for the purpose of profit on a continuous and repetitive basis.

C

Connected and Supplied means that the customer has a broadband connection available at their premises, and they are actively receiving a Broadband Connect Service from this connection.

CPE means customer premises equipment.

CSG Service has the meaning given to it under the Telecommunications (Customer Service Guarantee) Standard 2000 (No.2) as amended.

Customer - see definition of **Broadband Connect Customer**.

D

Data Speed means the speed at which data bits, comprising both protocol headers and data payload, are carried by a service. This contrasts with throughput, which refers to the delivery of actual payload data bits (i.e. the content useable to end-users), excluding protocol overheads. Data Speed is measured in kilobits per second, and is determined through the testing regime established by DCITA for Broadband Connect.

Deed means the legal deed between DCITA and a Provider concerning the supply of Services under Broadband Connect.

Demand Register - see definition of **Broadband Connect Demand Register**.

DCITA or the Department means the Department of Communications, Information Technology and the Arts or such other agency of the Commonwealth as may, from time to time, have responsibility for administering the program.

E

Eligible Customer means:

- (a) a Residential Customer;
- (b) a Small Business with 20 or FTEs at the time of application for a Service;
- (c) a Not-for-profit Organisation with 20 or fewer FTEs at the time of application for a Service, except in the case of Indigenous Community Councils where the FTE limit does not apply; or
- (d) a Not-for-profit Organisation where the Service supplied is for the provision by the organisation or agency of a Public Access Internet Facility on a not-for-profit basis.

Eligible Premises means, subject to sections 3.2, 3.3 and 3.4, any premises in the Broadband Connect Area that did not have access to a Metro-comparable Service at the start of HiBIS on 8 April 2004. DCITA is the final arbiter of whether any particular premises are considered to be an Eligible Premises.

ESA means a Telstra Exchange Service Area.

Exit Strategy means the arrangements by which a Provider manages its Broadband Connect Customer base if and when it ceases to provide Services. In particular, it refers to actions to be taken by the Provider to ensure that there is minimal negative impact on its Broadband Connect Customers when it ceases to provide Services.

F

FTE means full-time equivalent employees, regardless of whether or not the employees are permanent employees, and includes the clarifications described in sections 3.1.3 to 3.1.5.

G

Guidelines means these Broadband Connect Program Guidelines, as issued by DCITA and as amended from time to time.

H

HiBIS means the Higher Bandwidth Incentive Scheme.

High Cost Incentive Payment has the meaning given to it in section 2.6.

Higher Bandwidth Service means any Internet access service that provides access from the Internet (download) at a peak data speed of at least 256 kbps and access to the Internet (upload) at a peak data speed of at least 64 kbps.

I

Imminent Access, in relation to an area, means an area within the Broadband Connect Area, identified at

www.dcita.gov.au/communications_for_consumers/funding_programs__and__support/broadband_connect/broadband_connect_incentive_program and described at section 2.3, which a service provider had publicly identified prior to start of HiBIS on 8 April 2004 as being an area where it intended to provide Metro-comparable Services, and where Metro-comparable Services were provided by 31 December 2004.

Incentive Payment means either a Standard or a High Cost payment, or a portion thereof, to which a Provider will be entitled as described under section 2.7, to be paid after the Provider has Connected and Supplied a Service to an Eligible Customer, and upon receipt by DCITA of a properly submitted and supported claim accepted by DCITA.

Indigenous Community Council means an organisation as described at section 3.1.5.

Infrastructure Provider means a wholesale service provider who has registered with Broadband Connect for the purposes of providing Wholesale Services and receiving a designated share of the Incentive Payment. An Infrastructure Provider must also register as a Service Provider if it intends providing Broadband Connect retail Services.

ISDN means an Integrated Services Digital Network service, as provided by Telstra.

K

kbps means kilobits per second.

Kilobyte means 1000 bytes.

L

Last-mile Infrastructure means the infrastructure used to provide the link from a customer's premises to the provider's nearest point of aggregation.

M

MB means megabyte, which equals 1000 kilobytes.

Metropolitan Exclusion Area means:

- (a) the capital cities of Canberra, Sydney, Melbourne, Brisbane, Adelaide, Perth, Hobart and Darwin; and
- (b) the adjacent high population centres of Wollongong (NSW), the Central Coast of NSW, Newcastle (NSW), Geelong (Vic), Palmerston (NT) and the Gold Coast (Qld) including Tweed Heads (NSW),

the boundaries of which are defined by the relevant Urban Centre/Locality boundaries published by the Australian Bureau of Statistics as at 30 September 2002 in 2909.0 – *Statistical Geography: Volume 3 – Australian Standard Geographical Classification (ASGC) Urban Centres/Localities* (Issue 2001 released 30 September 2002; ISBN 0 642 47821 X)¹ and described in section 3.2.1.

Metro-comparable Service means a Higher Bandwidth Service that provides Internet access at a peak Data Speed of at least 256/64 kbps and 500 MB per month usage allowance, and has the following pricing:

- (a) where the service is an ADSL service:
 - I. a package including equipment, installation (but not travel costs) and monthly usage over three years at a price of up to \$2500; or
 - II. a package including equipment, installation (but not travel costs) and monthly usage over three years at a price of up to \$2900 where additional features or functionality of a value equal to or exceeding the additional price allowance are provided; or
- (b) where the service is not an ADSL service:
 - I. a package including equipment, installation (but not travel costs) and monthly usage over three years at a price of up to \$3000; or
 - II. a package including equipment, installation (but not travel costs) and monthly usage over three years at a price of up to \$3400 where additional features or functionality of a value equal to or exceeding the additional price allowance are provided.

N

New Housing/Business Estates means construction of a large number of premises in an identified single or staged development within the Broadband Connect Area.

¹ For further information see:

www.abs.gov.au/ausstats/abs@.nsf/0/B03C37D9D89F7C19CA256AD4007F67F8?Open&Highlight=0,urban

Not-for-profit Organisation means an organisation or a corporation that is formed for social, recreational, educational, charitable, philanthropic or other lawful purposes where any profit earned can only be applied for the purposes of the organisation as a whole and not distributed to individual members of the organisation. It does not include any Australian, State, Territory or local Government agency or any unincorporated associations.

Not-for-profit public access higher bandwidth Internet facility means a facility which allows one or more members of the public to access, or share access, to the Internet. For it to be provided on a not-for-profit basis means that any revenue earned from the service is applied only to the provision of the service or the operation of the organisation.

P

PGS means Pair Gain Systems.

Pre-existing Customer means a customer other than a Public Internet Access Facility who meets all the Program's eligibility requirements, and who at the time of the registration of its Provider was receiving a Higher Bandwidth Service that was comparable, except in regard to price, to the registered Broadband Connect Service.

Premises - see definition of **Broadband Connect Premises**.

Program means the Broadband Connect program.

Provider means a Service Provider or an Infrastructure Provider

Public Access Internet Facility means an Internet service that is provided principally for public access with or without charge.

R

Registered in relation to a Provider or a Broadband Connect Service means approved by DCITA for entry into the register referred to in section 2.1.

Remote Australia means, for the purpose of determining the payment of travel costs, the areas defined by Telstra as remote for the purposes of the Customer Service Guarantee as at July 2003, as identified on a map published by the Department on its website, and offshore islands and territories where those islands and territories are more than 100km from a State or mainland Territory capital city, measured in a straight line from the GPO of that city and not connected to the mainland via a fixed road transport link.

Residential Customer is a Customer who requests a Broadband Connect Service be provided at premises that are their place of residence, primarily for non-business use. Premises of a Residential Customer includes those places of residence described at section 3.1.2.

RIM means Remote Integrated Multiplexer.

RTI means the 2002 Regional Telecommunications Inquiry.

S

Service - see definition of **Broadband Connect Service**.

Service Area means the geographic area or areas, provided in a format acceptable to the Department, that have been included in the Deed of a Provider as the areas to which it will offer a particular Service or Wholesale Service.

Service Provider means an Internet service provider registered under the Program and with whom DCITA has a Deed under which the Service Provider must offer to provide Services to Eligible Customers under the Program.

Service Solution means the particular category of work undertaken to extend an existing technology platform or to deploy a new technology platform to supply a Service or Wholesale Service. Providers must identify the types of Service Solutions they are using as part of registering a Service or Wholesale Service. When making claims for Incentive Payments, Providers must identify the Service Solution used to supply the Service or Wholesale Service.

Service Upgrade means the arrangements by which a Broadband Connect Customer changes from a lower level to a higher level of Service in terms of Service performance, quality of Service and/or any other feature or functionality.

Small Business means a Business with 20 or fewer FTEs Australia-wide.

Standard Form of Agreement means a standard form of agreement under section 479(2)(b) of the *Telecommunications Act 1997* (Cth).

Standard Incentive Payment has the meaning given to it in section 2.6.

T

Telstra means Telstra Corporation Limited.

Telstra EZ Satellite Service means a two-way satellite service supplied by Telstra at concessional rates under Telstra's Two-Way Satellite Offer in accordance with the Extended Zones Agreement with the Australian Government.

Terms and Conditions - see definition of **Broadband Connect Terms and Conditions**

Threshold Service means a Service that provides:

- (a) access to the Internet;
- (b) a peak Data Speed of at least 256 kbps to the Customer and 64 kbps from the Customer;
- (c) average data download and upload speeds of at least 60 per cent of these peak speeds at least 75 per cent of the time as measured according to a prescribed Broadband Connect testing schedule for test computers located in different geographic regions described in section 4.6.2.2;
- (d) a minimum monthly usage allowance (download and upload) of at least 500 MB;
- (e) availability 99 per cent of the time, averaged over a quarterly period;
- (f) free 24 hour fault reporting;

- (g) staffed helpdesk services as agreed between DCITA and the Provider;
- (h) where Customer usage limits apply, Customer usage information updated at least once per day;
- (i) the ability, upon request of the Customer, to inform the Customer of current usage and any associated costs; and
- (j) where the service is an ADSL service:
 - I. a package including equipment, installation (but not travel costs) and monthly usage over three years at a price of up to \$1500; or
 - II. subject to approval by DCITA, a package including equipment, installation (but not travel costs) and monthly usage over three years at a price of up to \$2500 where additional features or functionality of a value equal to or exceeding the additional price allowance are provided; or
- (k) where the service is a two-way satellite service:
 - I. a package including equipment, installation (but not travel costs) and monthly usage over three years at a price of up to \$2600; or
 - II. subject to approval by DCITA, a package including equipment, installation (but not travel costs) and monthly usage over three years at a price of up to \$3600 where additional features or functionality of a value equal to or exceeding the additional price allowance are provided; or
- (l) where the service is not an ADSL service or a two-way satellite service:
 - I. a package including equipment, installation (but not travel costs) and monthly usage over three years at a price of up to \$2000; or
 - II. subject to approval by DCITA, a package including equipment, installation (but not travel costs) and monthly usage over three years at a price of up to \$3000 where additional features or functionality of a value equal to or exceeding the additional price allowance are provided.

TIO means the Telecommunications Industry Ombudsman.

U

Urban Infill means premises built on single vacant blocks, multi-dwelling units constructed where separate premises previously existed, and other incremental additions to the overall stock of premises within the Broadband Connect Area.

W

Wholesale Service means a wholesale service registered under the Program capable of supporting the supply of a Broadband Connect Service.

Working Day means a day other than:

- (a) a Saturday or a Sunday; or
- (b) a day that is a public holiday or an Australian Public Service holiday in the Australian Capital Territory.

2 Overview of the Operation of Broadband Connect

2.1 Broadband Connect Registration (Amended 1 December 2006)

For the operation of the Broadband Connect program during the 2006/2007 financial year, the following cut-off dates apply for Broadband Connect registration:

- Internet service providers or wholesale providers intending to become a Broadband Connect Provider can submit an application to DCITA at any time until 5:00pm EST on 30 June 2006;
- existing Providers wishing to extend their Service Area must submit their “Broadband Connect New Service Area Application Form” by 5:00pm EST on 31 December 2006; and
- existing Providers wishing to register new Services must submit their “Broadband Connect Service Registration Form” by 5:00pm EST on 31 December 2006.

After 31 December 2006, existing Providers may continue to:

- lodge applications with the Department seeking to *modify* their existing registered Service(s) where the modification will provide demonstrated benefits to Customers; and
- advise the Department of changes to Mapped Service Areas (as defined in section 1.3), provided the Mapped Service Areas are contained within existing registered Service Areas or in proposed Service Areas lodged with the Department by 5:00pm EST on 31 December 2006.

2.2 Broadband Connect Register

DCITA will maintain a register of Providers who have been approved by DCITA for participation in the Broadband Connect program. The procedures and assessment criteria for registration are explained later in these Guidelines.

The register will also contain details of Services submitted to DCITA by registered Providers and approved to be offered to Eligible Customers.

Registration of a Provider and of proposed Services does not, of itself, give a Provider any right to participate in Broadband Connect, to supply Services to Customers or to access Incentive Payments. Participation in Broadband Connect is dependent on the Provider entering into a Deed with DCITA as explained in more detail in section 2.6 and later sections of these Guidelines.

2.3 Broadband Connect Area and Eligible Premises (Amended 1 December 2006)

Broadband Connect operates in the Broadband Connect Area, and offers access to Metro-comparable Services for premises that did not have such access at the start of HiBIS on 8 April 2004.

Premises that did have access to Metro-comparable Services at the start of HiBIS on 8 April 2004 are not Eligible Premises, provided they retain access to Metro-comparable

Services. Areas that include premises with access to Metro-comparable Services are identified on DCITA's website at www.dcita.gov.au/communications_for_consumers/funding_programs_and_support/broadband_connect/broadband_connect_incentive_program.

The Broadband Connect Area includes areas that are identified on DCITA's website at www.dcita.gov.au/communications_for_consumers/funding_programs_and_support/broadband_connect/broadband_connect_incentive_program as having received Imminent Access by 31 December 2004, however premises within those Imminent Access areas which had access to Metro-comparable Services by 31 December 2004 are not Eligible Premises.

Imminent Access areas are areas that had been publicly identified by providers before the start of HiBIS on 8 April 2004 as being areas where they intended to provide Metro-comparable Services, and where this intention had been fulfilled by those providers commencing supply of such services to those areas by 31 December 2004.

Eligible Premises will not be entitled to receive a Broadband Connect Service from a Provider where the Customer's Premises is situated in a Mapped Service Area where the 12-month claim period has expired for that Provider. However, Customers remain entitled to receive a Broadband Connect Service from another Provider servicing that area, provided that that Provider's relevant 12-month claim period has not expired. For the purposes of the restricted claims period, note that the 12-month period is specific to each individual Provider, please see section 2.8.12 of these Guidelines for further information about the 12-month timeframe for claims.

2.4 Broadband Connect Services

Under Broadband Connect, Internet service providers can register as Service Providers and offer Services to Eligible Customers at Eligible Premises in the Broadband Connect Area. In return, they receive Incentive Payments from DCITA for each Customer Connected and Supplied with a Service.

All Service Providers are required to offer and supply upon request a Threshold Service. They must also register at least one Added Value Service providing a peak Data Speed of at least 512 kbps to the Customer and 128 kbps from the Customer and a minimum monthly usage allowance (download and upload) of at least 1 GB.

Where a Service Provider has Pre-existing Customers receiving a Higher Bandwidth Service, which is not a Metro-comparable Service, it must offer Broadband Connect-compliant Pricing for Pre-existing Customers.

Where Services utilise different platforms for data uploading and downloading (e.g. satellite download and an ISDN upload), the Provider supplying the Customer with the Service must supply the entire Service.

2.5 Broadband Connect Customers

Broadband Connect is targeted at four Eligible Customer groups: Residential Customers, Small Businesses, Not-for-profit Organisations, and Not-for-profit Organisations intending to provide new Public Access Internet Facilities. These groups

are described in more detail at section 3.1. Services are provided to these Eligible Customers at Eligible Premises.

2.6 Broadband Connect Service Providers

A service provider who wishes to register for the purposes of Broadband Connect must apply to DCITA and be assessed in relation to corporate, technical and financial capabilities and sustainability.

A service provider must agree to offer potential Customers:

- (a) at least one Threshold Service; and
- (b) at least one Added Value Service providing a peak Data Speed of at least 512 kbps to the Customer and 128 kbps from the Customer and a minimum monthly usage allowance (download and upload) of at least 1 GB.

Service providers who are approved by DCITA for registration with Broadband Connect are required to enter into a Deed with DCITA. The Deed binds the Service Provider to offer Services to customers and, when that offer is accepted, to Connect and Supply its Services on the Terms and Conditions that were approved at the time of registration for a period of three years from the date that it begins serving each Broadband Connect Customer.

The Deed also requires the Service Provider to agree to bind itself in these terms with its Broadband Connect Customers through its Customer contracts. The Terms and Conditions of the Customer contracts must be approved by DCITA and form a schedule to the Deed.

In determining whether or not to enter into a Deed with a Service Provider, DCITA may, in its discretion, require the Service Provider to undergo further or updated assessments in addition to the initial registration assessment. Such further assessment may be as extensive as a complete reassessment of the Service Provider's registration.

DCITA may also impose conditions for entry into a Deed, such as requirements for Service Providers to provide financial or performance guarantees or securities, should DCITA consider such conditions necessary to protect the Commonwealth's rights and interests under the Deed. The need for and extent of such conditions will be assessed on a case-by-case basis and will, in all cases where they are imposed, be additional to the requirements of the Deed itself.

Service Providers must market and supply the Services that they have registered in their Broadband Connect Service Areas. However, Service Providers may nominate only those Broadband Connect Service Areas that suit their particular technology platform and/or business plan.

Potential Customers are able to apply to Service Providers for Services, and after their preferred Service Provider has verified the customer's eligibility and that of the premises to which they want the Service provided, the Service can be Connected and Supplied, and an Incentive Payment claimed.

2.7 Broadband Connect Incentive Payments

After a Service Provider has Connected and Supplied a Service to an Eligible Customer at an Eligible Premises, the Provider is able to claim an Incentive Payment from DCITA. There are two categories of Incentive Payments:

- Standard, being \$1540 (including GST), payable for Services provided to premises which have ISDN Access (as defined in these Guidelines); and
- High Cost, being \$3300 (including GST), payable for Services provided to premises that have no ISDN Access (as defined in these Guidelines).

Only one Incentive Payment can be claimed for each Service supplied and the Incentive Payment can only be claimed after Connection and Supply of the Service to the Broadband Connect Customer. An additional payment in relation to some travel costs may be payable by DCITA where the Customer is located more than 100 kilometres from the Provider's closest depot (see section 4.13.9).

Partial Incentive Payments, based on the two categories above, are determined upon application for Service Providers to provide Pre-existing customers with Broadband Connect-compliant Pricing.

DCITA requires Service Providers to ensure Customers attest to their eligibility under Broadband Connect. Providers are required to ask Customers to provide attestation of their eligibility in a standard format, in writing or another form acceptable to DCITA.

The following activities must be completed before a claim for an Incentive Payment is submitted to DCITA:

- the Customer Attestation Form² has been completed and signed by the Customer;
- the Customer Terms and Conditions² (refer section 3.5.5) have been duly completed and signed by the Customer and the Service Provider; and
- the Customer has been Connected and Supplied with a Broadband Connect Service.

In claiming Incentive Payments, Providers are required to declare that the claims are legitimate and accurate and that the Provider holds and can produce on demand, evidence to substantiate the claim. Payments made by DCITA to Providers may be audited, and any monies found not to be legitimately payable to the Provider under its Deed are required to be repaid with interest. To ensure the accuracy of Provider claims DCITA will pursue a number of strategies, which may include interaction with Customers and data matching.

2.8 12-month timeframe for claims in a specified Service Area (Amended 11 July 2006, Further Amended 1 December 2006)

Where a Provider has deployed into a Service Area Last-mile Infrastructure, capable of supporting multiple premises, the timeframe within which Services Connected and

² Customer Attestation Forms and Customer Terms and Conditions can be in a written format or in another format acceptable to DCITA. DCITA can advise which formats are acceptable, and Providers must seek approval from DCITA before using a format other than written.

Supplied can be claimed is restricted to 12 months for each Provider. This period commences from the date on which a Provider's first Broadband Connect Service has been Connected and Supplied within a specified Mapped Service Area, following the deployment of Last-mile Infrastructure to enable the Service's provision in the specified Mapped Service Area (i.e. enablement of an exchange for ADSL services, laying of fibre optical cable, installation of wireless transmission equipment).

For the purposes of the restricted claims period, note that the 12-month period is specific to each individual Provider. For example, if one Provider commenced connecting Services in January 2006, and another commenced in June 2006, the 12-month period for the first Provider would expire in January 2007, while it would expire for the second Provider in June 2007.

As the Mapped Service Area for registered satellite services is national and the Last-mile Infrastructure upgrades are premises specific (subject to some commercial and technical limitations), this restricted claims period does not apply to claims for satellite services.

A Provider is not entitled to an Incentive Payment for any Service they have Connected and Supplied at a Premises situated within the Provider's Mapped Service Area where the 12-month claims period for that Provider's Mapped Service Area has expired. On the same basis, Eligible Premises situated in that Provider's Mapped Service Area will not be entitled to receive a Broadband Connect Service Connected and Supplied from that Provider because of the operation of the 12-month claims period. However, as the 12-month period is specific to each individual Provider, other registered Broadband Connect Providers may still be able to lodge a claim for Incentive Payments for Broadband Connect Services they have Connected and Supplied to Eligible Premises situated within their Mapped Service Area, provided that the 12-months claims period relating to the Provider's Mapped Service Area has not expired, and a claim has not already been made in respect of that Customer, unless exceptional circumstances, as noted in section 3.2.7 apply. Please refer to section 3.2.7 of these Guidelines for further details.

Registered Providers are required to identify their geographic Mapped Service Areas with sufficient detail to allow DCITA to reasonably identify premises falling within or outside of those Mapped Service Areas (see section 4.6.1).

Noting that Services have been Connected and Supplied under the former HiBIS from August 2004, the 12-month claims period restriction operates on a staggered basis:

- for Mapped Service Areas where the Provider's first HiBIS Service was Connected and Supplied prior to 1 July 2005, claims will be accepted, subject to these Guidelines, for Services Connected and Supplied by 30 June 2006;
- for Mapped Service Areas where the Provider's first HiBIS Service was Connected and Supplied between 1 July 2005 and 31 December 2005, claims will be accepted, subject to these Guidelines, for Services Connected and Supplied by 31 December 2006; and
- for Mapped Service Areas where the Provider's first Broadband Connect Service was Connected and Supplied on or after 1 January 2006, claims will be accepted,

subject to these Guidelines, for Services Connected and Supplied for 12 months from the date the first Service was Connected and Supplied.

Allowable Costs incurred in relation to Last-mile Infrastructure capable of supporting multiple premises are not subject to the 12-month restriction on claims for Incentive Payments rule.

2.9 Broadband Connect performance monitoring and compliance

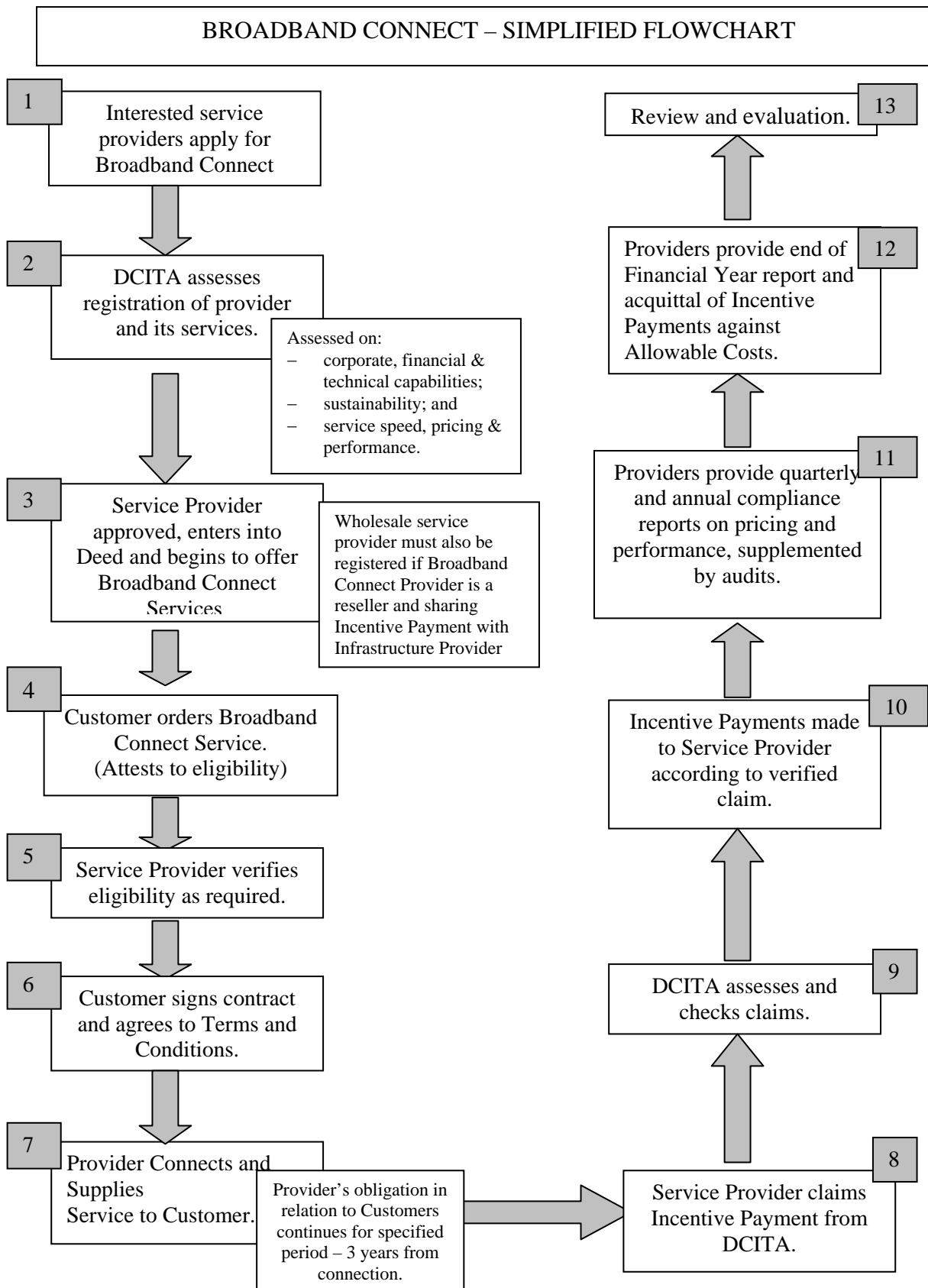
Within 20 Working Days after the end of each quarter each Service Provider must provide a performance report on key aspects of its Broadband Connect Service delivery, including Data Speed compliance, Service availability, Allowable Costs and complaints received from Customers.

At the end of the 2006/2007 financial year, each Provider must report to DCITA on its compliance with its obligations under Broadband Connect, particularly the obligation to provide Services at the performance and pricing levels set out in its Deed. Providers must also provide a financial report to DCITA at the end of the financial year. A summary of compliance reporting requirements common to all Providers is at Attachment 9.3.

Providers must also advise DCITA if they become aware of any material change in their corporate standing or managerial capabilities which could affect their ongoing ability to meet their obligations under Broadband Connect. These reports are supplemented by a program of audits of Providers by DCITA throughout the financial year.

Providers who are found to be in breach of their obligations will be required to take remedial action and, in the event of continued or serious breaches, their Deed may be terminated. Providers failing to meet their obligations to Customers under their Customer Terms and Conditions may be subject to investigation and action by the TIO. Where a Provider's breach of its obligations has resulted in any of its Services not meeting the Program's requirements as identified in these Guidelines or the Provider's Deed, future payments may be withheld and, in some cases, the Provider may also be required to repay to the Australian Government the Incentive Payments it received for those Services.

The flowchart below provides an overview of Broadband Connect’s operation.



3 Customer participation in Broadband Connect

3.1 Customer eligibility requirements

Services will only attract an Incentive Payment when provided to customers and premises where certain eligibility requirements are met. There are two key matters that need to be considered in assessing a customer's overall eligibility. These are:

- (a) the type of customer; and
- (b) the eligibility of the premises to which the Eligible Customer wants the Service provided.

3.1.1 Types of Customers eligible for Broadband Connect assistance

Four categories of customers are eligible to be supplied with Broadband Connect Services:

- (a) Residential Customers;
- (b) Small Businesses;
- (c) Not-for-profit Organisations with 20 or fewer FTEs, except in the case of Indigenous Community Councils, where the limit on FTEs does not apply; and
- (d) Not-for-profit Organisations, where the service supplied is for the provision by the organisation of a new Public Access Internet Facility on a not-for-profit basis.

3.1.2 Residential Customers

Subject to other eligibility requirements specified in section 3.1, Residential Customers are eligible to be provided with Broadband Connect Services.

A Residential Customer is not precluded from being supplied with a Service as a Small Business Customer, subject to meeting eligibility requirements.

A Residential Customer's premises do not need to be a person's sole or principal residence to be eligible under Broadband Connect, but must satisfy the definition of Eligible Premises. Thus, a Residential Customer may be supplied under Broadband Connect with Services at both the Customer's principal place of residence and any other place of residence (e.g. a weekend retreat or holiday home).

Where there is doubt as to whether premises are serving the purpose of a residence, Service Providers must satisfy themselves by obtaining information from the Customer that confirms his or her right of occupancy, and that the premises supports independent living. DCITA may require such evidence from a Service Provider as part of its assessment of a claim for an Incentive Payment.

For the purposes of Broadband Connect, a 'place of residence' is a self-contained and distinct place of residence and includes:

- (a) a distinct house or houses, including a 'granny flat' on a block of ground under a single title;
- (b) a flat or apartment in a block of flats or apartments;
- (c) houses, cottages or other dwellings on a farming property that are separate places of residence for the property owner and a staff member(s);
- (d) self-contained and distinct places of residence within retirement villages and nursing homes; and

- (e) a caravan that is permanently located at a caravan park and is a residence of the Customer.

Boats may be considered within the definition of Eligible Premises. However, the ability of Providers to offer Services to Customers at Eligible Premises that are boats may be limited by their technological capability to do so. Such Customers are eligible for a Service in their nominated home port, where that home port is in the Broadband Connect Area, and where all other eligibility criteria are met.

Residents of places that are separate residential units within a complex of such units, and are generally rented by the owner for occupancy by another person on a short-term basis, are not eligible to be provided with a Service under Broadband Connect. Such places include hotel rooms, holiday apartments, serviced apartments, boarders' rooms and dormitories.

3.1.3 Small Businesses

Small Businesses with 20 or fewer FTEs at the time of application for a Service are eligible to be provided with Broadband Connect Services, subject to other eligibility criteria being met.

In determining whether a Business has 20 or fewer FTEs, consideration is given to the total employment by the Business across Australia. Thus, although an organisation may have fewer than 20 FTEs working for it at a particular site or office in the Broadband Connect Area, if it has more than 20 FTEs nationally, it would not be eligible under Broadband Connect. Examples of Businesses that this provision excludes include branches of banks, supermarkets, chain stores, stock and station agents, and insurance companies.

Each Small Business is eligible to receive one Broadband Connect Service at each of its places of business that are Eligible Premises. Where multiple Businesses with common ownership and control share a single place of business, then each of those Businesses is eligible to receive one Broadband Connect Service only if the Business has:

- (a) a separate ABN (Australian Business Number) from the Business or Businesses with which it is co-located;
- (b) a unique trading name; and
- (c) a clearly identified separate work location within the shared building premises.

Where multiple separate Businesses (without common ownership and control) share the same premises (i.e. are co-located), each Business is eligible for a Broadband Connect Service.

A franchise with 20 or fewer FTEs will be eligible to receive a Broadband Connect Service providing the franchise is a separate legal entity from the franchisor and the franchisor is not in partnership with, or does not own all or part of, the franchise.

3.1.4 Not-for-profit Organisations

Not-for-profit Organisations with 20 or fewer FTEs at the time of application are eligible to be provided with Broadband Connect Services, subject to other eligibility criteria being met. Volunteers are not considered as employees in determining the number of FTEs for the purpose of an application under Broadband Connect.

In determining whether a Not-for-profit Organisation has 20 or fewer FTEs, consideration is given to the total employment of the organisation across Australia. Thus, although an organisation may have fewer than 20 FTEs working for it at a particular site or office, if it has more than 20 FTEs nationally, it would not be eligible under Broadband Connect. Not-for-profit Organisations that this provision excludes may include local offices of national representative organisations.

Not-for-profit Organisation does not include Australian, State, Territory and local governments or their agencies.

3.1.5 Indigenous Community Councils

Organisations that are Indigenous Community Councils are taken to be Not-for-profit Organisations for the purposes of Broadband Connect, and are eligible to be provided with Services under Broadband Connect, subject to other eligibility criteria being met. There are no limits on the number of permanent FTEs employed by such Councils.

For the purposes of Broadband Connect, an 'Indigenous Community Council' is, in Queensland:

- (a) an Aboriginal Council constituted under the *Community Services (Aborigines) Act 1984* (Qld); or
- (b) an Island Council constituted under the *Community Services (Torres Strait) Act 1984* (Qld).

In the Northern Territory, an 'Indigenous Community Council' is:

- (a) an indigenous community government council established under the *Local Government Act* (NT); or
- (b) an incorporated association recognised as a 'local governing body' by the Australian and Northern Territory Governments in order that Australian Government funding can be made for local government type-services.

An Indigenous Community Council must be able to substantiate its status to a Service Provider and, if requested, to DCITA.

Where a body in another State or Territory asserts that it is an 'Indigenous Community Council', DCITA will consider each claim on its merits.

3.1.6 Not-for-profit Public Access Internet Facilities

Not-for-profit Organisations, regardless of their numbers of FTEs, are eligible to be provided with Services under Broadband Connect to provide new Public Access Internet Facilities on a not-for-profit basis at Eligible Premises.

There is a limit of three Services per Eligible Premises (see section 3.4.1). Broadband Connect only supports Services for Public Access Internet Facilities that are new Services. Broadband Connect does not provide Incentive Payments to enable Customers who are providing pre-existing higher bandwidth public access services to migrate to Broadband Connect-compliant Pricing.

For the purposes of this section, a Not-for-profit Organisation is the same as described in section 3.1.4, but without regard to the limit on the number of FTEs.

If a Service supplied for a Not-for-profit Public Access Internet Facility is shared among a number of users, it is not expected that end-users will necessarily experience the same Higher Bandwidth Service Data Speeds that would be available if the Service was not shared.

3.2 Premises to which Broadband Connect Services can be provided

The supply of Services and the payment of Incentive Payments under Broadband Connect are subject to a number of eligibility criteria in relation to the location of the premises to which the Service is to be supplied.

Premises are Eligible Premises if they are places of residence, of Business, or for the operation of a Not-for-profit Organisation as described in section 3.1.

In addition, premises are Eligible Premises if they are in the Broadband Connect Area and:

- (a) did **not** have access to a Metro-comparable Service at the start of HiBIS on 8 April 2004; or
- (b) did **not** receive Imminent Access to a Metro-comparable Service by 31 December 2004; or
- (c) did **not** have access to a Metro-comparable Service at any other time following 8 April 2004 due to pre-existing capacity ceasing to be available, until such time as capacity is again made available.

There are three methods of determining whether premises are Eligible Premises:

1. Customers may attest to the Service Provider that they have confirmed the eligibility of their premises with the Online Service Locator (see section 3.5.1).
2. Providers may determine the eligibility of premises by using the Online Service Locator (see section 3.5.1).
3. Providers may submit claims to DCITA for Customers they are supplying with a Service or have received an order from, and DCITA will provide a response about the eligibility of each of these Customers' premises. The response from DCITA will indicate if the Customer's premises are:
 - eligible;
 - not eligible because a Metro-comparable Service was available at the start of HiBIS on 8 April 2004³; or
 - not eligible because the premises is within the Metropolitan Exclusion Area, but may be eligible for a service under the Metropolitan Broadband Connect program.

³ If the Provider believes that the premises did not have access to a Metro-comparable Service at the start of HiBIS on 8 April 2004 and should be Eligible Premises, then the Provider is required to do further investigation to prove the eligibility of the premises. The process for determining if premises had access to a Metro-comparable Service at the start of the Program is outlined in section 3.5.1.2.

Except where otherwise explicitly provided for in these Guidelines, premises that are considered to be eligible at the start of the Program remain Eligible Premises for the duration of these Guidelines until they are supplied a Service.

Premises remain eligible even if a service provider is able to offer them a Metro-comparable Service independently of Broadband Connect support, as long as the service offered is not actually connected and was not available prior to the start of the Program.

3.2.1 Exclusion of premises in metropolitan areas and specified adjacent urban centres

Broadband Connect applies to premises in the defined Broadband Connect Area, which excludes the Metropolitan Exclusion Area.

A map showing the boundaries of the Metropolitan Exclusion Area is available at www.dcita.gov.au/communications_for_consumers/funding_programs__and__support/broadband_connect/broadband_connect_incentive_program.

Where there is dispute as to whether or not premises are in the Broadband Connect Area, DCITA will consider each claim on its merits, and will make a determination, based on available evidence.

3.2.2 Exclusion of premises with existing access to Metro-comparable Services

Premises are not eligible under Broadband Connect where, at the start of HiBIS on 8 April 2004, they had access to a Metro-comparable Service. The process for determining whether premises are eligible under Broadband Connect is described at section 3.5.1.

3.2.2.1 Premises with access to Telstra ADSL services

Premises in the Broadband Connect Area that had access to a Telstra ADSL service (whether or not in fact connected) at the start of HiBIS on 8 April 2004 are considered to have access to a Metro-comparable Service, and are not Eligible Premises. An indicative map of Telstra's ADSL coverage at 8 April 2004 is provided on the Broadband Connect website. Providers and Customers should refer to the website to assist in determining the availability of an ADSL Service.

This map shows ESAs that were enabled to provide ADSL services at 8 April 2004. Not all premises within these ESAs were able to access ADSL services at that time, because of distance and other technological limitations. Such premises are Eligible Premises, as discussed in more detail in sections 3.2.5 and 3.2.6.

3.2.2.2 Premises with Metro-comparable Services through other providers

A list of other service providers identified as providing access to Metro-comparable Services at the start of HiBIS on 8 April 2004 in areas not coinciding with Telstra's ADSL coverage, along with their general service areas, is available at www.dcita.gov.au/communications_for_consumers/funding_programs__and__support/

broadband_connect/broadband_connect_incentive_program. Premises which were able to receive these services at 8 April 2004 are not Eligible Premises.

3.2.2.3 Premises with Imminent Access

Premises are also not Eligible Premises if they gained access to a Metro-comparable Service by 31 December 2004 under the Imminent Access arrangements. These areas are identified at

www.dcita.gov.au/communications_for_consumers/funding_programs__and__support/broadband_connect/broadband_connect_incentive_program.

3.2.3 Ongoing Eligibility of premises (Amended 1 December 2006)

Unless otherwise explicitly provided for in these Guidelines (including under the Imminent Access arrangements), premises that were eligible to receive a HiBIS Service at the start of HiBIS on 8 April 2004 remain eligible to receive a Broadband Connect Service from any Service Provider servicing their area. This applies even if a service provider is able to offer them a Metro-comparable Service or a service with Broadband Connect-compliant Pricing, independently of Broadband Connect support.

Where Premises are situated in a Mapped Service Area where the Provider is no longer eligible to claim Incentive Payments as a result of the operation of the 12-month rule (refer section 2.8), the Premises is treated as not being an 'Eligible Premises' for the purposes of being supplied with a Service by that particular Provider.

3.2.4 Premises no longer eligible once provided with a HiBIS Service, a Broadband Connect Service or a Metro-comparable Service

Once premises have been provided with a HiBIS Service or a Broadband Connect Service, the premises are no longer an Eligible Premises. This includes for future occupants of the premises, except as provided for in these Guidelines (see section 3.4.4.1).

Premises also become ineligible under Broadband Connect once they have been provided with a Metro-comparable Service or a service with Broadband Connect-compliant Pricing. This applies for services supplied by both registered Service providers and unregistered service providers.

If Broadband Connect Premises are renovated, repaired or altered in any way by any person after the provision of a Service, and the renovation, repair or alteration results in the Service (as installed) ceasing to be available, then the premises remain ineligible to receive another Broadband Connect Service.

3.2.5 Premises that lose access to a Metro-comparable Service following the start of HiBIS

Where premises had access to a Metro-comparable Service at the start of HiBIS on 8 April 2004, or received access under the Imminent Access arrangements by 31 December 2004, but loses that access as a result of available capacity becoming unavailable, the premises become Eligible Premises until such time as capacity again becomes available. The Service Provider who provided the particular Metro-

comparable Service is not eligible to provide Broadband Connect Services to premises that have become Eligible Premises as a result of losing access in these circumstances.

3.2.6 Premises without access to a Metro-comparable Service because of technological limitations

Where premises are in an area that, at the start of HiBIS on 8 April 2004 or after the provision of Imminent Access by 31 December 2004, had access to a Metro-comparable Service, the premises are nevertheless eligible to be supplied with a Broadband Connect Service if they did not have access to a Metro-comparable Service because of technological limitations, such as distance or the use of PGSs and RIMs.

This is particularly pertinent to ADSL services, because distance and the use of PGSs and RIMs prevent its availability to all premises within an ADSL-enabled ESA. It is also relevant to other technologies. For example, a wireless service may be offered in an area at 8 April 2004, but may be unavailable to particular premises because of topographical features.

3.2.6.1 Removal of technological limitations and the eligibility of premises

If a Service Provider in the Broadband Connect Area, either with or without Broadband Connect support, undertakes the removal of a technological limitation (e.g. by replacement of a PGS or RIM or increasing a transmitter's power) to provide a Metro-comparable Service to one or more premises previously denied access because of that limitation, all premises receiving access as a result of that upgrade will remain Eligible Premises, provided they have not already become Broadband Connect Premises.

In the event of a Provider removing a technological limitation in an area where a Metro-comparable Service was generally available at the start of HiBIS on 8 April 2004, the Provider will be required to provide DCITA with details of the upgrade and the location of premises now able to receive a Broadband Connect Service as a result of the upgrade (these premises will be subject to the 12 month claims period see section 2.8).

Subject to Customer privacy requirements, this information will be made available by DCITA to all Providers. This is to ensure that competing Providers are able to continue to offer Services to such Eligible Customers for the duration of the Program.

3.2.7 Eligibility of newly constructed premises (Amended 1 December 2006)

Generally, newly constructed premises in the Broadband Connect Area will be subject to the same eligibility requirements as existing premises. This includes New Housing/Business Estates and Urban Infill.

Greenfields sites are locations where there has not previously been any building, A greenfields may include New Housing/Business Estates (as defined under these Guidelines), such as the subdivision of farmland, and urban infill. For the purposes of Broadband Connect, where greenfields sites are being developed, premises located on the site since 8 April 2004 will be eligible to receive a Broadband Connect Service, subject to other eligibility requirements being met. However, any existing premises on

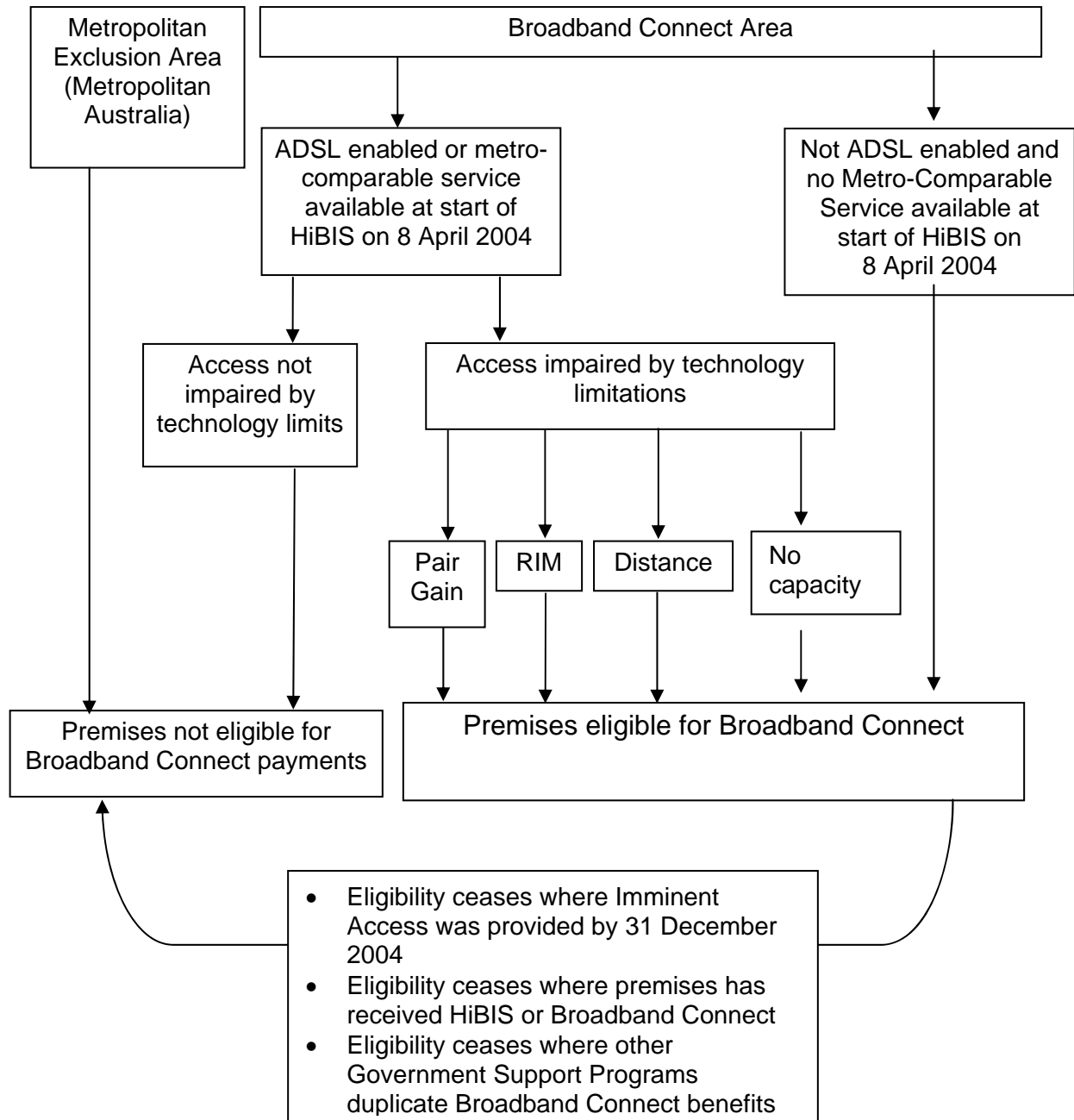
that site that had access to a Metro-Comparable Service as at 8 April 2004 is not an Eligible Premises for the purposes of Broadband Connect.

However, if an Eligible Premises is demolished and rebuilt after the provision of a Service, and the rebuild results in the Service ceasing to be available, then the Premises will generally remain ineligible to receive another Broadband Connect Service. If an Eligible Premises is destroyed by a natural disaster, the Premises may, subject to DCITA's discretion, retain its eligibility status where it can be shown that the loss of eligibility was beyond the Customer's control. However, eligibility in these exceptional cases will be determined by the Department on a case-by-case basis. Providers should seek further advice from DCITA in these instances for DCITA to make a determination as to eligibility.

3.2.8 Summary of eligibility arrangements relating to premises

Eligibility arrangements are summarised in Figure 1 below:

Figure 1: Premises eligibility for Broadband Connect



3.3 Other Government programs and eligibility under Broadband Connect

3.3.1 Special Digital Data Service Obligation beneficiaries covered

Premises and/or Customers that have received assistance with services under the Special Digital Data Service Obligation (SDDSO) are eligible to receive Broadband Connect Services, provided other eligibility criteria have been met. If Providers utilise existing equipment they provided as part of an SDDSO service to provide a Broadband Connect Service, they may only claim partial Incentive Payments for connecting these Premises and/or Customers because they are deemed to be Pre-existing Customers.

3.3.2 Certain beneficiaries of the Extended Zones Agreement excluded

Premises where a Telstra Extended Zones (EZ) Satellite Service has been installed and the service has been operating within the past five years are not eligible to receive a Broadband Connect Service.

If a new occupant moves to that premises and the Telstra EZ Satellite Service can no longer be provided as a result, that customer is eligible to receive a Broadband Connect Service at those premises.

If a customer who has received a Telstra EZ Satellite Service moves to a new premises at which there is no Telstra EZ Satellite Service, and all other eligibility requirements are met, that customer is eligible to receive a Broadband Connect Service.

Customers in the Extended Zones who have not received a Telstra EZ Satellite Service are eligible to receive a Broadband Connect Service, provided other eligibility criteria are met.

3.3.3 Other Government Support Programs

DCITA may identify other Australian, State/Territory or local Government programs that have the same explicit purpose and effect as Broadband Connect. In these circumstances the following would apply:

- (a) premises receiving Metro-comparable Services as a result of such programs would no longer be Eligible Premises;
- (b) providers able to offer access to Metro-comparable Services to particular premises as a result of those programs would not be eligible to provide Broadband Connect Services to those particular premises; and
- (c) other Providers would be eligible to provide Broadband Connect Services to those premises.

Programs will be considered on a case-by-case basis. This provision may apply to pre-existing programs and any future programs. Exclusion will be on a prospective basis only and will only come into force after DCITA takes steps to inform all Providers of the exclusion in writing and from a date specified in writing by DCITA. For this purpose, the publishing of a notice on DCITA's website is sufficient.

If other Government support is limited or is considered to have an objective to provide additional benefits beyond the Broadband Connect objectives, premises receiving those

benefits and which would otherwise be Eligible Premises, would remain Eligible Premises. For example, the Queensland Government program, by which distance education families are provided with financial assistance to offset the cost of participating in distance education, is considered not to overlap with Broadband Connect, but rather to be complementary. In these instances, premises and/or customers would remain eligible for Broadband Connect Services.

3.4 Service-related eligibility provisions

3.4.1 Number of Broadband Connect Services per Premises

With the exception of a Not-for-profit Organisation providing a Public Access Internet Facility, one Broadband Connect Service may be provided to an Eligible Premises at any one time for each type of Eligible Customer.

Where Eligible Premises are occupied by more than one type of Eligible Customer, one Broadband Connect Service may be provided for each type of Eligible Customer, even if more than one type of Eligible Customer is represented by a single person, for example, where a person is eligible as both a Small Business and a Residential Customer. Types of Eligible Customers are set out in section 3.1.1.

Where the Eligible Customer is a Not-for-profit Organisation providing new Public Access Internet Facilities, no more than three Services can be provided to the Eligible Customer at these premises, unless the Customer has requested in writing and, obtained in advance, from DCITA a written notice specifying that a greater number of Services can be provided at a premises for that Customer. In deciding whether to issue such a notice to a Customer, DCITA will require the Customer to provide information regarding:

- (a) the number of existing and likely users of the Public Access Internet Facility for which the approval is being sought;
- (b) the nature of the entity and its access to funding, other than through Broadband Connect; and
- (c) any other matter DCITA considers relevant.

DCITA will also advise Providers when it gives approval for such a Customer to have access to more than three Broadband Connect Services.

3.4.2 Customer transfers between Broadband Connect Service Providers

Where a Customer receives a Service from one Provider at particular premises and then transfers to a different Provider to receive a Higher Bandwidth Service at those same premises, the new Provider is not eligible for an Incentive Payment in respect of that Higher Bandwidth Service.

However, where a Customer stops receiving a Service at particular premises through circumstances beyond their control, the Customer will be eligible to be supplied with another Service to those premises.

3.4.3 Broadband Connect support for Pre-existing Customers

Pre-existing Customers who are already being supplied with a Higher Bandwidth Service in the Broadband Connect Area by a Service Provider, but not a service with Broadband Connect-compliant Pricing, are eligible to receive a Broadband Connect Service. Their Service Provider can claim an Incentive Payment from Broadband Connect to transfer the Pre-existing Customer from their existing service to a service with Broadband Connect-compliant Pricing, and to upgrade equipment if necessary. This would generally be a partial payment based on the appropriate portion of the full Incentive Payment.

Where their Service Provider does not offer a Service that is reasonably equivalent (apart from price) to the Higher Bandwidth Service already being supplied, the Pre-existing Customer is eligible to receive a Service from any Provider offering services in the Broadband Connect Service Area, and a full Incentive Payment applies.

Customers who are receiving a Higher Bandwidth Service which does not include Broadband Connect-compliant Pricing from a service provider who is not a registered Service Provider are eligible to receive a Broadband Connect Service from a registered Service Provider, and a full Incentive Payment is payable.

Details of partial Incentive Payments payable for transferring Pre-existing Customers to Broadband Connect-compliant Pricing are at section 4.13.10.

3.4.4 When a Broadband Connect Customer changes premises

When a Broadband Connect Customer changes premises, the following provisions apply.

3.4.4.1 Moves to Eligible Premises

If an existing HiBIS or Broadband Connect Customer moves to an Eligible Premises which have not previously been provided with a HiBIS or Broadband Connect Service, the Customer is eligible to receive a Broadband Connect Service at those premises.

If that Customer is able to transfer any relevant CPE and use that equipment to receive a HiBIS or Broadband Connect Service, whether from its existing Provider or another HiBIS or Broadband Connect Provider, a full Incentive Payment is still payable, but the cost of the CPE for that service may be deducted from the Provider's Allowable Costs (see sections 4.13.11 and 4.13.12 for further information on Allowable Costs).

A new Customer moving to premises that have previously been provided with a HiBIS or Broadband Connect Service is generally not eligible to receive a Broadband Connect Service at the premises. This provision recognises that, in such circumstances, the infrastructure necessary to provide a Metro-comparable Service to the new resident will generally remain in place. The exception is where a Metro-comparable Service cannot be provided to the new Eligible Customer at that premises unless a new Broadband Connect Service is provided, for example where a Broadband Connect two-way satellite service is the only means of providing a Metro-comparable Service to the new Customer.

3.4.4.2 Moves to premises that are not eligible for Broadband Connect

An existing HiBIS or Broadband Connect Customer moving to premises that are not Eligible Premises is not eligible to receive a Broadband Connect Service at the new premises.

3.5 Process for Customers to obtain a Broadband Connect Service

Broadband Connect aims to make a Customer's procedure for acquiring a Broadband Connect Service as similar as possible to their usual commercial dealings with a service provider.

3.5.1 How Customers determine whether their premises are Eligible Premises

3.5.1.1 Online Service Locator

Potential Customers may determine if their premises are eligible for a Broadband Connect Service by using the Online Service Locator on Broadband Connect Online. If the customer is unable to access the Online Service Locator, they can email DCITA at broadbandconnect@dcita.gov.au or call 1800 883 488.

After entering the street address of the premises into the Online Service Locator, the customer will receive a response indicating the eligibility of their premises.

If the response identifies the premises as being eligible for a Broadband Connect Service, then the response will include a list of Service Providers that can potentially offer the customer a Service. The customer can then contact the Service Providers to ascertain which Service best suits their needs.

If the response identifies that the premises are not eligible because there were Metro-comparable Services available at the start of HiBIS on 8 April 2004, then the response will include a list of Service Providers or service providers that may be able to offer the customer a Service or Metro-comparable Service. The customer can then contact the Service Providers or service providers to ascertain which Service or service best suits their needs. If the customer or Provider believes that the premises did not have access to a Metro-comparable Service at the start of HiBIS on 8 April 2004 and should be Eligible Premises, then the customer or Provider is required to do further investigation to prove their eligibility. The process for determining if premises had access to a Metro-comparable Service at the start of the Program is outlined in section 3.5.1.2.

If the response identifies that the premises are not eligible for a Broadband Connect Service because the premises are within the Metropolitan Exclusion Area, then the customer is not eligible to receive a Broadband Connect Service, but may be eligible to receive a Metropolitan Broadband Connect Service, see www.dcita.gov.au/communications_for_business/funding_programs__and__support/metropolitan_broadband_connect, or email DCITA at mbc@dcita.gov.au or call 1800 883 488 for further information.

3.5.1.2 Assess whether premises had access to a Metro-comparable Service at the start of HiBIS

Customers and Providers are able to check whether any Metro-comparable Services were available in an area at the start of HiBIS on 8 April 2004 or following the provision of Imminent Access. A list of Providers, the general service areas where they are providing Metro-comparable Services and their contact details is identified at www.dcita.gov.au/communications_for_consumers/funding_programs__and__support/broadband_connect/broadband_connect_incentive_program. If Customers are in the general service area of a Metro-comparable Service described at www.dcita.gov.au/communications_for_consumers/funding_programs__and__support/broadband_connect/broadband_connect_incentive_program, they will need to check with the relevant Provider as to the availability of a Metro-comparable Service to their premises.

Generally, if Metro-comparable Services identified at www.dcita.gov.au/communications_for_consumers/funding_programs__and__support/broadband_connect/broadband_connect_incentive_program are available at any time during HiBIS or Broadband Connect, they would have been available at 8 April 2004. The exception is upgrades to services identified at www.dcita.gov.au/communications_for_consumers/funding_programs__and__support/broadband_connect/broadband_connect_incentive_program that have taken place since 8 April 2004, whether under HiBIS or Broadband Connect or separately. Premises that gain access to Metro-comparable Services after 8 April 2004 remain Eligible Premises under Broadband Connect until those Services are provided.

Customers who believe they are eligible for assistance following these checks can then apply for a Broadband Connect Service from their preferred Provider. The Broadband Connect website provides indicative information about the areas Providers are serving. The information on the website is only indicative as the online mapping system cannot precisely mirror the service areas of Providers, particularly where coverage may be limited by technology restrictions or topographical features. Customers need to check with their preferred Provider about the availability of Services to their particular premises.

As Broadband Connect is a competitive multi-provider program, Providers are encouraged to actively market their Services in their Service Areas.

3.5.1.3 Review of access by DCITA

Notwithstanding the procedures above, premises may be accepted as not having access to a Metro-comparable Service at the start of HiBIS on 8 April 2004 or following the provision of Imminent Access by 31 December 2004 if a Customer and/or a Provider can provide evidence in writing to DCITA that reasonably satisfies DCITA to this effect.

3.5.2 Broadband Connect Demand Register

Customers are able to add their names to the Broadband Connect Demand Register established by DCITA and operated as part of Broadband Connect Online.

The Demand Register collects the contact details of potential Broadband Connect Customers and basic information about the type of services they are seeking. This

information is available to registered Providers with a view to helping them market their Services to Eligible Customers and to assist establishing a business case for investment in particular areas.

The Broadband Connect Demand Register is operated independently of demand registers set up by other entities.

3.5.3 Customer application form and attestation (Amended 1 December 2006)

Once a Customer has identified a preferred Provider who can provide a Service to their premises, the Customer needs to place an order with the Provider.

DCITA requires Providers to ensure Customers attest they are Eligible Customers under Broadband Connect. Providers are required to ask Customers to provide attestation of their eligibility in a standard format, in writing or another form acceptable to DCITA.

Customers must attest that, to the best of their knowledge:

- (a) the information provided in their application is accurate;
- (b) they and the Premises at which they require the Broadband Connect Service are eligible under Broadband Connect, and they or their Broadband Connect Provider have made such inquiries as are required by DCITA to confirm this; and
- (c) they acknowledge and accept the obligations on them under Broadband Connect, including agreeing to provide information and to it being shared among appropriate organisations.

Customers may also be required to attest that, to the best of their knowledge, ISDN services are not available at their premises due to technological limitations.

Customers should also note that in applying for a Broadband Connect Service, they are accepting various terms and conditions of supply.

Where a Customer has previously had a HiBIS or Broadband Connect Service, but no longer has access to that Service due to circumstances beyond their control, the details of those circumstances must be forwarded to DCITA by the Service Provider.

For audit purposes, Customers must be able to produce relevant proof to support the information in their application, upon request from DCITA or its representative.

The standard provisions of the Customer application and attestation form required by DCITA are at Attachment 9.2.

3.5.4 Use of Customer information by DCITA

DCITA requires Customers to agree, for the purposes of the *Privacy Act 1988* (the '*Privacy Act*'), to their Customer details being provided by Providers to DCITA, and potentially other appropriate agencies for the purposes of Program administration, regulation and evaluation, and policy development.

Customers' personal information is handled in accordance with the provisions of the *Privacy Act*, which sets standards for the collection, storage, use and disclosure of

personal information. Personal information is disclosed only as provided for in these Guidelines or with the permission of the individual to whom it relates, or where the *Privacy Act* allows.

The information that Customers are asked to agree to allow to be disclosed includes information relating to their identity, contact details, the Services they are having supplied and the premises to which the Service is being provided.

3.5.5 Broadband Connect Service Terms and Conditions

Providers are required to enter into a contract with their Customers in relation to their Services. Standard Form of Agreements are not able to be used for this purpose. A Provider's Deed with DCITA requires the Provider to include in its Service Terms and Conditions ('Customer contract') such commitments to deliver the service performance and pricing levels as it has committed to in its Deed. Providers' Customer contracts and changes to Customer contracts must be approved by DCITA prior to their use.

Where a Provider's Customer contract makes provision for the use or introduction of an Acceptable Use Policy (AUP), the AUP must be cleared by DCITA for consistency with these Guidelines prior to its use. Changes to any AUP must also be cleared by DCITA prior to their use.

3.5.6 Upgrades by Customers of Broadband Connect Services

A Customer may upgrade the Service they are receiving under Broadband Connect to a higher level of Service, subject to the Terms and Conditions offered by the Provider, and subject to paying any additional charges required by the Provider. No further Incentive Payment is payable in relation to such Service Upgrades.

In these circumstances, if the new service is a Broadband Connect Service, the Provider is required to provide the Service on the applicable Broadband Connect Service Terms and Conditions for a period of three years from the time that the first HiBIS or Broadband Connect Service (from which the Customer is upgrading) was provided. If the new service is not a Broadband Connect Service, the Provider has no obligation to provide Broadband Connect Service Terms and Conditions in relation to the service.

3.5.7 Customer termination of Broadband Connect Service (and churning)

Broadband Connect does not place any restrictions on termination by a Customer of a Broadband Connect Service. The Customer is only bound by their contract with the Provider in this regard, as would be the case with any other commercial arrangement. Termination of the supply of a Broadband Connect Service by a Customer does not affect the Incentive Payment that has been paid to the Provider.

Similarly, Broadband Connect does not place restrictions on a Customer leaving one provider for another provider (i.e. churning), whether to a Broadband Connect Provider or otherwise. Where a Customer does this, no Incentive Payment will be payable to the new Provider, and there is no obligation on the new Provider to offer Broadband Connect Terms and Conditions to the Customer.

This matter is discussed further in section 4.5.8 in the context of withdrawal from a Service Area by a Provider or withdrawal of a Service.

3.5.8 Customer Terms and Conditions after 3 year period

Providers are required to offer the Service for a period of three years from the date the Service is first supplied to the Customer (see section 4.6.6 for further details).

As part of the registration process, Applicants will need to specify their intended policies in relation to Broadband Connect Customers' Terms and Conditions after the initial three-year period of supply of the Service to the Customer. The Australian Government cannot give potential Customers any assurances that Broadband Connect Terms and Conditions will be maintained after this period.

4 Service Provider participation in Broadband Connect

4.1 Broadband Connect Online

To assist DCITA and Broadband Connect Providers with the administration of Broadband Connect, DCITA has established an online program management system that can be accessed via

www.dcita.gov.au/communications_for_consumers/funding_programs_and_support/broadband_connect/broadband_connect_incentive_program. For Providers, this includes:

- (a) information and maps indicating the geographic areas that are covered by Broadband Connect;
- (b) information on the allocation, and remaining availability, of funds under Broadband Connect in a financial year;
- (c) a demand register where potential Customers can be identified; and
- (d) the Online Service Locator (see section 3.5.1.1).

Providers use Broadband Connect Online (accessible via the Broadband Connect website) to make claims for Incentive Payments and travel costs for Services provided under Broadband Connect, including providing Customer data.

In the event that Broadband Connect Online is not fully operational at any time during Broadband Connect's operation, DCITA will institute alternative management arrangements.

4.2 Provider eligibility under Broadband Connect

All retail and wholesale Internet service providers, are eligible to apply for registration under Broadband Connect, and to receive Incentive Payments from DCITA for the provision of Broadband Connect Services.

4.3 Retailer-Infrastructure Provider arrangements

If an Applicant proposes to provide a Service by reselling a Wholesale Service provided by an Infrastructure Provider, then the Applicant must seek to agree with the Infrastructure Provider whether the Incentive Payment will be shared and, if so, then what proportion each will receive. This also applies where a Service Provider that has already commenced offering Services wishes to offer additional Services by commencing to resell an Infrastructure Provider's Wholesale Services. If the Applicant and the Infrastructure Provider cannot reach an agreement then the Applicant and the Infrastructure Provider must accept DCITA's determination of how Incentive Payments are to be shared (see section 4.3.1), otherwise the Applicant will not be registered under the Program.

If an infrastructure provider wishes to register under the Program to provide a Wholesale Service to a Service Provider already reselling their non-registered wholesale services, then the infrastructure provider must submit an application to register under the Program in accordance with the requirements outlined in section 4.4.2 and the overall assessment process described in section 4.5. If the infrastructure provider becomes registered under the Program, then the Infrastructure Provider and the Service Provider must seek to agree what proportion of the Incentive Payment each will

receive. If such agreement cannot be reached then both parties must accept DCITA's determination of how Incentive Payments are to be shared (see Section 4.3.1).

It is required that the Service Provider and the Infrastructure Provider establish appropriate contractual arrangements to reflect the arrangements for sharing Incentive Payments. DCITA does not specify the form which such agreements should take.

DCITA will pay amounts that the reselling Service Provider agrees to be passed on to the Infrastructure Provider directly to the Infrastructure Provider.

The information required from the Applicant in relation to wholesale arrangements is:

- (a) the identity of the Infrastructure Provider/s;
- (b) the nature of the agreement between the Applicant and the Infrastructure Provider/s;
and
- (c) the share of each Incentive Payment to be paid to the Broadband Connect Infrastructure Provider, being a proportion of the total incentive or a dollar amount.

If Broadband Connect payments to a Infrastructure Provider cease because payments have exceeded Allowable Costs, Broadband Connect Service Providers who have agreements with that Infrastructure Provider in relation to sharing Incentive Payments, will continue to receive their agreed share of the Incentive Payment, subject to not exceeding their Allowable Costs, and vice versa.

These arrangements apply to both Broadband Connect Threshold Services and Broadband Connect Added Value Services.

4.3.1 Arrangements where the Infrastructure Provider and Service Provider, or an Applicant, cannot agree to share Incentive Payments

Where an Infrastructure Provider either:

- (a) supplies a Wholesale Service to a Service Provider and this Wholesale Service is used to supply a Service; or
- (b) proposes to supply a Wholesale Service to a service provider applying to be registered under the Program,

and the two parties cannot agree as to how the Incentive Payment should be shared, DCITA will determine the size of the partial Incentive Payment for each party. The method for making this determination will be as follows:

- 1) where some but not all of the Infrastructure Provider's resellers are Service Providers:
 - (i) the partial Incentive Payment to the Infrastructure Provider for the supply of Wholesale Services will be calculated as the average of the Infrastructure Provider's share in its agreements with Service Providers;
and
 - (ii) the partial Incentive Payment to the Service Provider or Applicant for the supply of Services will be the full Incentive Payment less the Infrastructure Provider's partial Incentive Payment as calculated in (i) above;

- 2) where none of the Infrastructure Provider's other resellers are Service Providers, the partial Incentive Payments will be calculated by DCITA at its discretion.

4.3.2 Arrangements where either the infrastructure provider or the retailer is not registered

4.3.2.1 Registered Infrastructure Provider and unregistered service provider

Where an Infrastructure Provider supplies a Wholesale Service to an Internet service provider who is not registered under the Program and the Internet service provider uses the Wholesale Service to supply a Higher Bandwidth Service to Eligible Premises, the Infrastructure Provider will be entitled to claim a lower level of Incentive Payment.

This Incentive Payment to the Infrastructure Provider will be lower because the Infrastructure Provider will not be able to guarantee that the service being supplied to the customer meets the Service criteria for pricing or contract period.

In these circumstances, DCITA will determine the amount of the Incentive Payment at its discretion. In general, the partial Incentive Payment to be paid to the Infrastructure Provider in these circumstances will be 70 per cent of the full Incentive Payment. However, the level of the partial Incentive Payment may be varied to the extent that the Infrastructure Provider can guarantee that the service to the end user will meet the criteria for performance, pricing and contract period as set out in these Guidelines.

At a minimum, the Infrastructure Provider will be required to supply sufficient information to DCITA to allow it to determine:

- (a) the eligibility of the location of the Customer's premises; and
- (b) that a Higher Bandwidth Service is being supplied to the Customer's premises.

4.3.2.2 Registered Service Provider and unregistered Infrastructure Provider

Where a Service Provider utilises the wholesale service of an infrastructure provider who is not registered under the Program to supply a Service to Eligible Premises, the Service Provider will be entitled to claim a full Incentive Payment. Service Providers will also be entitled to a full Incentive Payment if they utilise an unregistered service of a registered Infrastructure Provider to supply a Service to Eligible Premises.

4.4 Applying for Provider registration

Before participating in Broadband Connect, Applicants are required to register themselves and each Service they propose to provide, and to sign a Deed with the Commonwealth, represented by and acting through DCITA. Services that offer different functionality (e.g. bandwidth) and are offered at different prices will be considered as separate Services for the purposes of Broadband Connect.

4.4.1 Requirements for registration as a Service Provider

Application for registration under Broadband Connect is open to all service providers. Registration is subject to Applicants being assessed and found to meet the requirements for registration, including their corporate standing and managerial capabilities (see section 4.5).

As a pre-requisite for registration, providers must be a current member of the Telecommunications Industry Ombudsman scheme where required under the *Telecommunications (Consumer Protection and Service Standards) Act 1999* and (where applicable) hold a current carrier licence or nominated carrier declaration under the *Telecommunications Act 1997*. Providers who are uncertain as to whether they require a carrier licence or declaration should contact ACMA for advice.

At the time of initial application for registration, Applicants must apply to register:

- (a) at least one Threshold Service for each technology platform being used;
- (b) at least one Added Value Service for each technology platform being used providing a peak Data Speed of at least 512 kbps to the Customer and 128 kbps from the Customer as well as a minimum monthly usage allowance (download and upload) of at least 1 GB (see section 4.4.7.1); and
- (c) each Service Solution the Service Provider proposes to use to provide the Services it proposes to register (see section 4.4.7.4 for an overview of Service Solutions).

Where a Broadband Connect Provider is already supplying a Higher Bandwidth Service to Pre-existing Customers and proposes to register the service under Broadband Connect, the Provider must register Broadband Connect-compliant Pricing for Pre-existing Customers. Pricing for a Pre-existing Customer generally attracts partial Incentive Payments for each Customer transferred to Broadband Connect-compliant Pricing (see section 4.13.10).

4.4.2 Requirements for registration as an Infrastructure Provider

It is a prerequisite for registration as an Infrastructure Provider that the infrastructure provider has established or intends to establish new infrastructure from the start of HiBIS on 8 April 2004 and/or has incurred other costs that can be directly attributed to the provision of Wholesale Services and included in Allowable Costs.

An Infrastructure Provider must register as a Service Provider if it also proposes to provide retail Services.

Registration is subject to infrastructure providers being assessed and found to meet the requirements for registration, including their corporate standing and managerial capabilities as identified under section 4.5.

4.4.3 Service Provider eligibility and other funding programs

If DCITA identifies any Australian, State, Territory or local Government programs that have the same explicit purpose and effect as Broadband Connect, it may exclude providers and/or their services funded under those programs from Broadband Connect eligibility. Alternatively, total Allowable Costs of benefiting Providers may be adjusted to reflect funds provided under those programs.

Such programs will be considered on a case-by-case basis. This provision applies to pre-existing programs and any future programs. Such exclusion will be on a prospective basis only. DCITA will take reasonable steps to inform all Providers of such exclusions in writing.

If other Government support is limited and/or has additional objectives, it may be considered to complement Broadband Connect. For example, the Queensland Government program, by which distance education families are provided with financial assistance to offset the cost of using distance education, is considered not to overlap with Broadband Connect and to be complementary. In these circumstances, Broadband Connect Provider eligibility would be unaffected.

4.4.4 When applications can be made

An Internet service provider or wholesale provider intending to become a Broadband Connect Provider can submit an application at any time until 5:00pm EST on 30 June 2006.

4.4.5 The Broadband Connect Deed

A Service Provider whose application for registration under Broadband Connect is successful is required to sign a Deed with the Commonwealth, represented by and acting through DCITA, in order to become a Broadband Connect Provider. DCITA may impose conditions as set out in section 2.6.

The Deed binds the Provider to comply with the requirements of Broadband Connect, and where the Provider provides Services as agreed, commits the Commonwealth to pay the Incentive Payments applicable to the Services Connected and Supplied by the Provider.

The standard Deed is available separately at www.dcita.gov.au/communications_for_consumers/funding_programs_and_support/broadband_connect/broadband_connect_incentive_program. Providers should note that DCITA intends to use a standardised Deed for all Providers, but makes no representations that it will enter into any Deed in exactly the terms of this standard Deed.

Prior to submitting an application under Broadband Connect, Providers should fully apprise themselves of the details of the Deed, obtaining independent legal advice where necessary.

Applicants are required to state in their applications that they have read the Deed and are aware that it must be executed by the Applicant and the Commonwealth in order for the Applicant to become a registered Provider. The Applicant must be successfully registered as a Provider and have their Deed executed by DCITA before it can offer, Connect and Supply Broadband Connect Services to Eligible Customers and before it becomes entitled to receive Incentive Payments.

4.4.5.1 Duration of the Deeds under Broadband Connect

Deeds under Broadband Connect provide for Incentive Payments for only the financial year for which they are signed. It should be noted that the Deed will provide for the Provider's obligations to a Broadband Connect Customer Connected and Supplied during that year to continue for three years from the date of Connection and Supply of the Service to the Customer.

Before the start of each new financial year in which Broadband Connect operates, each registered Provider may be invited to enter into a new Deed, subject to the Provider's satisfactory compliance with its obligations up to that time under HiBIS and Broadband Connect, any relevant changes to the Broadband Connect program, and if there has been no material change in their circumstances that would render the Provider ineligible for registration under Broadband Connect. DCITA may request further information for assessment. Such assessment may amount to a complete reassessment of the Broadband Connect Provider's registration.

4.4.6 Commencement date for the supply of Broadband Connect Services

Broadband Connect Providers can choose the date from which they begin to offer Services, but that date must be specified in their application and set out in their Deed. The date may be any date on or after the Deed comes into effect.

Where a Provider applies for Broadband Connect registration in advance of having arrangements in place to offer Services, its registration and its Deed are based on the information provided in its application. If, before beginning to offer Broadband Connect Services the Provider becomes aware that it can no longer meet the terms and conditions agreed to in the Deed, it must advise DCITA immediately. In order for DCITA to agree to a variation of the Deed, it must be satisfied that any new terms and conditions proposed by the Provider are compatible with the arrangements set out in the Deed.

4.4.7 The registration application - Procedural matters

Applicants and wholesale service providers seeking registration of themselves and/or services must use the Broadband Connect Provider, Broadband Connect Infrastructure Provider and Broadband Connect Service registration application forms provided by DCITA. Copies of the forms can be downloaded from Broadband Connect website at www.dcita.gov.au/communications_for_consumers/funding_programs_and_support/broadband_connect/broadband_connect_incentive_program, or requested from DCITA using the contact details provided in section 7.

All applications must be completed in full, and be accompanied by such attachments and supporting documents as specified in these Guidelines and in the registration forms. Incomplete applications will not be accepted by DCITA. Where the Applicant is an organisation, the applications must be submitted by an appropriately authorised person.

Applications will not be processed until the fully completed application, including all attachments and supporting documentation, has been received by DCITA. Where DCITA requests further information from an Applicant to enable it to undertake or progress processing of an application and any part of the requested information has not been received by DCITA within two (2) months, the application will be placed 'on hold' and no further processing undertaken until all requested information has been provided in full to DCITA. Where an application remains 'on hold' for four (4) months, it will be declined.

Applications are accepted in either hard copy or electronic format (Microsoft Word 97 or another compatible program). If provided in hard copy, the original application must be signed and dated and must be accompanied by two full copies.

Applications will be accepted in electronic format, but must be accompanied by a signed and dated hard copy declaration that the electronic application is full and complete and duly authorised. The original hard copy of the Application must be forwarded to DCITA within five (5) Working Days of the electronic submission. If the original hard copy is not received within the prescribed five (5) Working Days, processing of the Application will cease until the original hard copy documents are received.

Declarations can be forwarded to DCITA using the contact details in section 7.

4.4.7.1 Requirements for registration of a Service Provider

The initial application to become a Service Provider must seek registration of the Service Provider and:

- (i) at least one Threshold Service for each technology platform being used; and
- (ii) at least one Added Value Service for each technology platform being used providing a peak Data Speed of at least 512 kbps to the Customer and 128 kbps from the Customer and a minimum monthly usage allowance (download and upload) of at least 1 GB.

Applications for registration of more than one Threshold Service and Added Value Service in the same Service Area or different Service Areas can be made. In all instances, Threshold Services must meet or better the performance and pricing parameters specified in these Guidelines.

4.4.7.2 Requirements for registration of Infrastructure Providers

The initial application to become an Infrastructure Provider must seek registration of the Applicant and, for each Service Area in which the Applicant intends to operate, the registration of a Wholesale Service that will allow for the supply of:

- (i) Threshold Services; and
- (ii) Added Value Services providing a peak Data Speed of at least 512 kbps to the Customer and 128 kbps from the Customer and a minimum monthly usage allowance (download and upload) of at least 1 GB.

Applications for registration of more than one Wholesale Service in the same Service Area or different Service Areas can be made, and in all instances, Wholesale Services must allow the supply of Threshold Services to meet the pricing and performance parameters specified in these Guidelines.

4.4.7.3 Overview of the registration assessment

An Applicant is required to provide information on, and demonstrate:

- 1) its identity;
- 2) its corporate standing and managerial capabilities;
- 3) its technical and operational capabilities;
- 4) its financial standing;
- 5) the ongoing operation and sustainability of its business, particularly in regard to the Broadband Connect Services proposed; and
- 6) its capacity to meet the requirements of the Deed and these Guidelines.

DCITA requires different levels of information, and undertakes different levels of scrutiny, depending on the size and corporate standing of Applicants and their experience in providing Higher Bandwidth Services (see section 4.5). Assessment criteria are set out in sections 4.5.3 to 4.5.6 below. DCITA reserves the right to seek additional information and documentation in order to satisfy itself as to the suitability of an Applicant for registration.

For the Applicant's proposed Broadband Connect Threshold Service(s), the assessment covers nine main areas:

- 1) Data Speeds;
- 2) the pricing of the proposed Service, including the various price components;
- 3) other mandatory functionality and features;
- 4) the Service Area(s) in which the proposed Service will be offered;
- 5) the commencement date for supply of the proposed Service;
- 6) other nominated features of the proposed Service;
- 7) marketing arrangements;
- 8) the Allowable Costs of providing the proposed Broadband Connect Service; and
- 9) the various Service Solutions for supplying the proposed Service (for example, the construction and outfitting of a wireless transmission tower or the removal of an ADSL inhibitor), including the expected Allowable Costs associated with each.

Applications for Added Value Services are subject to similar scrutiny, but more flexible requirements apply in relation to pricing.

Other information for administrative purposes (e.g. estimated call on Broadband Connect funds) is also required.

The same categories of information are requested of all Applicants for Broadband Connect Service registration, although there may be different levels of information requested depending on the categorisation of the Applicant. The information supplied by applicants is assessed in the same way regardless of the categorisation of the Applicant as set out in Table 1.

4.4.7.4 Overview of Service Solution registration and assessment

The Service Solution is the particular category of work undertaken and/or infrastructure deployed to either extend an existing technology platform or deploy a new technology platform to supply a Service or Wholesale Service. In other words, it is the means by which the Service or Wholesale Service is provided. Examples of Service Solutions might include:

- (a) the installation of ADSL DSLAMs;
- (b) transpositions of a service to a copper path able to support ADSL; and
- (c) the construction of wireless towers and transceiver equipment.

As part of the registration process, Providers are required to register each of their proposed Service Solutions for providing a particular Service or Wholesale Service. At least one Threshold Service and at least one Added Value Service must be registered for each Service Solution over which the Service Provider intends offering Services.

Providers making claims for payment must identify the registered Service Solution used to supply the Service or Wholesale Service.

For each of the Applicant's proposed Service Solutions, the assessment covers four main areas:

- (a) a description of the Service Solution and its capabilities to support the supply of Services;
- (b) whether the Allowable Costs of providing the proposed Service Solution are material with respect to the Incentive Payment;
- (c) whether there is a viable upgrade path that will enable the supply of higher quality services (such as higher data rates, increased data usage, symmetrical services and low latency); and
- (d) whether the Service Solution can be readily scaled to provide services to additional customers.

4.4.8 Confidentiality of Applicant information

Information provided in applications should be identified as confidential if the Applicant wishes it to be treated as such.

Documents containing personal information are handled and protected in accordance with the provisions of the *Privacy Act*, which sets standards for the collection, storage, use and disclosure of personal information. Personal information is disclosed only as provided for in these Guidelines or with the permission of the individual to whom it relates, or where the *Privacy Act* allows.

4.5 Assessing Broadband Connect Providers and Broadband Connect Infrastructure Providers

DCITA applies additional scrutiny to Applicants with a lower level of available business resources and with less experience in the provision of Higher Bandwidth Services. This additional scrutiny is intended to address the additional risk to the Australian Government of registering Providers who have limited financial resources and/or experience in providing Higher Bandwidth Services. As a result, Applicants will be categorised for assessment as set out in Table 1.

Gross revenue of business in previous financial year	Current number of higher bandwidth Customers		
	<1000	1,000 to 10,000	>10,000
>\$50 million	Category C	Category B	Category A
\$1m to \$50m	Category C	Category B	Category B
<\$1m	Category D	Category D	Category D

Categorisation of Broadband Connect Applicants is at DCITA's discretion.

For the purposes of registering wholesale service providers, they will be assessed against criteria equivalent to those applying to Category A Service Providers, where

relevant and as identified at section 4.5. Wholesale service provider requirements are identified by 'W' in sections 4.5.3 to 4.5.6.

DCITA may decide to streamline the assessment of the technical platform where the Service Provider is reselling the Services of a registered Broadband Connect Infrastructure Provider.

4.5.1 Assessment of the Applicant as a Provider

In the registration application, information is requested to allow DCITA to properly assess Applicants in specified areas. In all instances, Applicants must be prepared to provide, upon request, further documentation to substantiate claims made in their application form.

DCITA relies on the information provided by Applicants; however, it may undertake such background checks and due diligence as it considers necessary to confirm the accuracy of information provided by an Applicant and the acceptability of an Applicant for registration under Broadband Connect. This may include checks of financial viability, criminality and regulatory compliance. Applicants are required to provide such consent as is necessary for these checks to be conducted by DCITA.

4.5.2 Assessment of Provider is for Broadband Connect purposes only

The assessment of Applicants by DCITA is solely for the purpose of DCITA determining whether it is acceptable to DCITA that the Applicant should be registered as a Broadband Connect Provider. DCITA's assessment, including its assessment of financial information, is not to be taken by the Provider or any other person as a representation by DCITA as to that Provider's financial viability. Accordingly, no Provider or any third party should rely upon that assessment.

4.5.3 Applicant's corporate standing and managerial capabilities

Applicants are assessed to establish the extent to which their organisational and managerial capacity is adequate to provide Broadband Connect Services. An Applicant's capability will be assessed according to the categorisation of the Applicant as set out in Table 1, and according to the specific criteria below.

SOLVENCY

Applicant category: A, B, C, D, W

Indicative Benchmark/s:

- (a) Solvent.
- (b) No knowledge of development that could change solvency status.

Information required/How assessed:

- (a) Director's or principal's statutory declaration, as applicable.
- (b) Where applicable to an Applicant, its:
 - (i) profit and loss statements;
 - (ii) balance sheets; and
 - (iii) cashflow statements; or
 - (iv) public annual reports.
 for the last 1, 2 or 3 years, where available.

Where the documents in (b) above are not available for the Applicant (e.g. it is a start-up operation), reliance will be placed on the statutory declaration (if applicable) and other information required in the application or requested by DCITA.

AUDIT STATUS

Applicant category: A, B, C, D, W

Indicative Benchmark/s: Unqualified audit report of financial position of the Applicant.

Information required/How assessed:

- (a) Where applicable, a copy of the audit report for the last annual financial statements.
- (b) As applicable, director's or principal's statutory declaration that no material events have occurred since the date of the audit report that would affect the overall validity of the audit report.
- (c) Where an Applicant is unaudited, full set of the last three years' financial statements, including notes.
- (d) Where the documents in (a) to (c) above are not available for the Applicant (e.g. it is a start-up operation), reliance will be placed on the statutory declaration (if applicable) and other information required in the application or requested by DCITA.

REGULATORY STATUS

Applicant category: A, B, C, D, W

Indicative Benchmark/s: Up-to-date with statutory lodgement requirements.

Information required/How assessed:

- (a) Statement of being up to date with lodgements and other statutory requirements with: ASIC, ATO, ASX, ACMA, ACCC and TIO⁴.
- (b) Statement identifying and giving the details of any alleged breaches of law being pursued by ASIC, the ATO, ACMA or ACCC at the time of registration.
- (c) The entity seeking registration must be GST registered.

CRIMINALITY STATUS

Applicant category: A, B, C, D, W

Indicative Benchmark/s: Checks do not result in negative reports being received.

Information required/How assessed:

- (a) In relation to criminal conviction, charges pending and other serious breaches, National Police criminal records check listing the criminal history (if any) across police jurisdictions of each member of the Board, or principals. (The certificate can be obtained from police in the State or Territory where the company/entity is registered)

BOARD EXPERIENCE (IF APPLICABLE)

Applicant category: B, C, D

Indicative Benchmark/s:

For the Board as a whole, 6 years minimum, combined industry experience at Board or senior executive level.

- (a) At least two Board members with at least 3 years industry experience each at Board or senior executive level.

⁴ That is, the Australian Securities and Investments Commission (ASIC), the Australian Taxation Office (ATO), the Australian Stock Exchange (ASX), the Australian Communications and Media Authority (ACMA), and the Australian Competition and Consumer Commission (ACCC).

Information required/How assessed:

- (b) Details of Board members and their relevant experience.
- (c) An ASIC Current and Historical company extract, including notification of directors' appointments.

CAPABILITY OF SENIOR MANAGEMENT**Applicant category:** B, C, D**Indicative Benchmark/s:** For the management team, 6 years minimum, combined industry experience at senior management level.

- (a) At least two managers with at least 3 years industry experience each at senior management level.

Information required/How assessed:

- (a) Details of organisational structure.
- (b) Details of senior managers including their roles, qualifications and relevant industry experience.

4.5.4 Applicant's operational and technical capabilities

Applicants, Service Solutions and technology platforms will be assessed to establish their operational and technical capability to provide Services or Wholesale Services under Broadband Connect, against the criteria set out below.

ROBUSTNESS OF TECHNOLOGICAL PLATFORM AND SERVICE SOLUTIONS**Applicant category:** A, B, C, D, W (as relevant)**Indicative Benchmark/s:**

- (a) Successful testing on an operational basis.
- (b) Capacity to increase scale of operations commensurate with Applicant's business plans.
- (c) Whether the platform is covered by documented technical standards.

Information required/How assessed:

- (a) Description of the platform, including the brand of equipment to be used
- (b) Description of the Service Solutions for each platform.
- (c) Information on testing results and operational deployment.
- (d) Details of standardisation.

SYSTEMS TO SUPPORT OPERATION UNDER BROADBAND CONNECT**Applicant category:** A, B, C, D**Indicative Benchmark/s:**

- (a) In-house, outsourced or combination of operational support systems to support level of Higher Bandwidth Service to customers currently served and proposed.
- (b) Adequate arrangements in place by the commencement of Broadband Connect Service.

Information required/How assessed:

- (a) Description of systems or arrangements (e.g. plans, outsourcing).

RISK MANAGEMENT**Applicant category:** A, B, C, D**Indicative Benchmark/s:**

- (a) Awareness of key technical and operational risks and effective strategies to address them, particularly in Broadband Connect context.

Information required/How assessed:

- (a) Identification of key technical and operational risks.
- (b) Strategies to mitigate those risks.

TECHNICAL CAPABILITY AND EXPERIENCE OF CHIEF TECHNOLOGY OFFICER (CTO) AND/OR CHIEF OPERATIONS OFFICER (COO)⁵:**Applicant category:** A, B, C, D**Indicative Benchmark/s:**

- (a) Tertiary qualifications in IT, Communications Engineering or other relevant discipline; or technical competence, otherwise demonstrated.
- (b) At least 2 years equivalent experience at a senior level.
- (c) Technical expertise provided in-house or outsourced.

Information required/How assessed:

- (a) Names of CTO and/or COO.
- (b) Statement of the CTO and/or COO's qualifications and experience, including recent relevant major projects.
- (c) Whether CTO/COO are on contract and, if so, date contract expires.
- (d) Supporting documentation available upon request.

ADEQUACY AND QUALIFICATIONS OF TECHNICAL STAFF**Applicant category:** A, B, C, D (infrastructure-based only)**Indicative Benchmark/s:**

- (a) Industry qualified and/or experienced operational staff.

Information required/How assessed:

- (a) General statement of the level of qualification and experience required of technical staff on recruitment.
- (b) General statement on staffing levels to manage projected Customer base.

COMMERCIAL AVAILABILITY OF PROPOSED TECHNOLOGY AND SUPPORT FOR IT**Applicant category:** A, B, C, D (infrastructure-based only)**Indicative Benchmark/s:**

- (a) Technology is commercially available and supported in Australia or well proven overseas.

Information required/How assessed:

- (a) Descriptive statement from applicant of proposed technology and support arrangements.

4.5.5 Applicant's financial standing

Applicants are assessed according to the criteria set out below, to establish that their financial resources are sufficient to provide services effectively under Broadband Connect.

In addition to information required from Applicants, DCITA may seek information on financial standing from third parties, including credit rating agencies. Applicants need to provide written authorisations as required.

⁵ In small organisations without dedicated staff serving in these designations, this criterion relates to the person/s filling comparable roles, whether in-house or outsourced.

ONGOING ABILITY TO FUND BROADBAND CONNECT COMMITMENTS**Applicant category:** A, W**Indicative Benchmark/s:**

Absence of material commitments that would call into question the Applicant's ability to sustain its Broadband Connect operations.

Information required/How assessed:

- (a) Financial Statements and annual reports as applicable.
- (b) Answers to questions on application form.
- (c) Director's statutory declaration.
- (d) Other information and supporting documentation as requested by DCITA.

BROADBAND CONNECT PROVIDER'S ACCESS TO ADEQUATE FUNDS**Applicant category:** B, C, D**Indicative Benchmark/s:**

Access to sufficient funds to operate the business while participating in Broadband Connect.

Information required/How assessed:

- (a) Financial statements and annual reports as applicable.
- (b) Answers to questions on application form.
- (c) Director's or principal's statutory declaration.
- (d) For C and D Applicants, a business plan that is to include a completed Broadband Connect financial plan template.
- (e) Other information and supporting documentation as requested by DCITA.

FINANCIAL PERFORMANCE - PROFIT**Applicant category:** B, C, D**Indicative Benchmark/s:**

Profitable.

Information required/How assessed:

As for Broadband Connect Provider's access to adequate funds above.

FINANCIAL PERFORMANCE – NET ASSETS**Applicant category:** B, C, D**Indicative Benchmark/s:**

Positive net assets.

Information required/How assessed:

As for Broadband Connect Provider's access to adequate funds above.

FINANCIAL PERFORMANCE – NET CURRENT ASSETS**Applicant category:** B, C, D**Indicative Benchmark/s:**

Positive net current assets

Information required/How assessed:

As for Broadband Connect Provider's access to adequate funds above

ASSETS AND FUTURE COMMITMENTS**Applicant category:** B, C, D**Indicative Benchmark/s:**

Material future commitments relative to net assets on the balance sheet at the Applicant's most recent financial year end.

Information required/How assessed:

As for Broadband Connect Provider's access to adequate funds above.

4.5.6 The sustainability of the Applicant's proposed Broadband Connect operation

In support of their applications for registration as Broadband Connect Providers, Applicants who fall into Categories C and D are required to submit business planning information in relation to their proposed Broadband Connect operations. This is to assist DCITA to assess their likely capacity to deliver Higher Bandwidth Services during and beyond the period of the Broadband Connect program. The business planning information must cover the matters identified below, and will be assessed as indicated. Further information or documentation may be requested by DCITA.

OVERVIEW OF INTENDED BROADBAND CONNECT BUSINESS

Applicant category: C and D

Indicative Benchmark/s:

- (a) Absolute scale and complexity of intended Broadband Connect business.
- (b) Scale of Broadband Connect business relative to Applicant's experience and other operations in the business.

Information required/ How assessed:

- (a) Answers to questions in application form.

MARKETING AND SALES PLANS AND STRATEGIES

Applicant category: B, C, D

Indicative Benchmark/s:

- (a) Adequacy and likely effectiveness of arrangements to achieve business objective.
- (b) Use of outsourcing where internal expertise is lacking.

Information required/ How assessed:

- (a) Answers to questions in application form.
- (b) Adequacy and likely effectiveness of arrangements to achieve business objective.
- (c) Use of outsourcing where internal expertise is lacking.

CUSTOMER SERVICE STANDARDS

Applicant category: B, C, D

Indicative Benchmark/s:

- (a) Adequacy and likely effectiveness of arrangements to achieve business objective.
- (b) Use of outsourcing where internal expertise is lacking.

Information required/ How assessed:

- (a) Answers to questions in application form.
- (b) Adequacy and likely effectiveness of arrangements to achieve business objective.
- (c) Use of outsourcing where internal expertise is lacking.

BILLING ARRANGEMENTS

Applicant category: C and D

Indicative Benchmark/s:

- (a) Adequacy and likely effectiveness of arrangements to achieve business objective.
- (b) Use of outsourcing where internal expertise is lacking.

Information required/ How assessed:

- (a) Answers to questions in application form.
- (b) Adequacy and likely effectiveness of arrangements to achieve business objective.

(c) Use of outsourcing where internal expertise is lacking.

REASONABLENESS OF FINANCIAL PLAN'S ASSUMPTIONS

Applicant category: B, C, D

Indicative Benchmark/s:

- (a) Assumptions in relation to:
- (i) higher bandwidth Internet penetration;
 - (ii) market share;
 - (iii) pricing; and
 - (iv) costs.

Information required/ How assessed:

- (a) Answers to questions in application form.
 (b) Financial Plan.

REASONABLENESS OF THE FINANCIAL PROJECTIONS

Applicant category: B, C, D

Indicative Benchmark/s:

- (a) Performance in terms of:
- (i) gross margin;
 - (ii) shareholder funds;
 - (iii) EBTIDA⁶;
 - (iv) funding and sales; and
 - (v) long-term profitability.

Information required/ How assessed:

- (a) Answers to questions in application form.
 (b) Financial plan.

4.5.7 Provision of financial plans

Applicants who fall into Categories C and D are required to submit a business plan that is to include a completed Broadband Connect financial plan template, for their proposed Broadband Connect business operations in support of their applications. The Broadband Connect financial plan template is available separately at the Broadband Connect website at www.dcita.gov.au/communications_for_consumers/funding_programs__and__support/broadband_connect/broadband_connect_incentive_program.

The financial plan template contains a guide on its structure and operation. DCITA cannot assist Applicants in the preparation of their financial plans, beyond the general information provided in this guide.

4.5.8 Arrangements for withdrawal of the Broadband Connect Provider

Each Applicant must set out an Exit Strategy it would follow if it decided to terminate its registration as a Broadband Connect Provider or its registration of a Broadband Connect Service.

A Broadband Connect Provider must comply with the Exit Strategy included in its registration and set out in its Deed.

⁶ EBTIDA: Earnings before tax, interest, depreciation and amortisation.

The Exit Strategy must provide for the Provider to give DCITA and the Provider's Broadband Connect Customers not less than 30 days notice of its intention to withdraw itself or a Service from Broadband Connect.

It must also set out details on how relevant aspects of Service withdrawal would be managed, including:

- (a) ownership of CPE; and
- (b) assistance with transferring Customers to comparable services.

Where a Provider is proposing to withdraw a Service but to continue operating as a Broadband Connect Provider, the Provider must offer to migrate Customers off the withdrawn Service to a comparable Broadband Connect Service, if such a Service is available.

4.6 Assessment of an Applicant's Broadband Connect Services

These sections focus on the assessment for registration of Broadband Connect Threshold Services. These arrangements also apply to Broadband Connect Added Value Services except in the area of pricing.

4.6.1 Area in which the Broadband Connect Service is to be offered (Amended 11 July 2006)

For a service to be registered as a Broadband Connect Threshold Service, the Applicant must specify the area or areas in which it will offer and supply the Service, subject to normal technological and commercial limitations, upon request by an Eligible Customer during the period of the Provider's funding deed. These areas will be the Service Areas for the Service concerned. The Applicant has reasonable discretion in defining its Service Area, within the provisions governing overall eligibility of the Broadband Connect Area. Within reason, the area can be as small or as large as the Broadband Connect Provider wishes. For example, the area may be a discrete community, a local government area or the whole Broadband Connect Area. Providers of Services for which the 12 month restriction applies need to consider the requirements set out in section 2.8 of these Guidelines before registering Service Areas and advising the Department of their Mapped Service Areas.

The Service Area may also be defined by the locations to which it is technically or financially feasible to offer the proposed Broadband Connect Service, rather than by a discrete geographic area. For example, a Provider providing Services via satellite may define its Service Area to include those premises only serviceable by satellite solutions.

Service Areas must be within the Broadband Connect Area. An Applicant's proposed Service Area must be defined with sufficient specificity to enable a clear understanding by DCITA and the Applicant's potential Customers of the circumstances and locations in which the Applicant will provide a Service.

DCITA reserves the right to reject any application which, in its view, indicates the Applicant has defined the Service Area to target a particular Customer group, rather than all Eligible Customers able to receive the Service in a Service Area.

A Provider who has registered a Service in a Service Area, may subsequently not be able to offer that Service because its existing infrastructure is fully utilised and no further capacity is available. In this circumstance the Provider may invest in further infrastructure (which would be included in its Allowable Costs) for the purpose of continuing to offer Services in the Service Area, or it may cease to offer Services in that Service Area. If the Provider ceases to offer Services in these circumstances, it must promptly notify DCITA in writing within 15 Working Days , and it must continue to fulfil its obligations to its existing Customers in that Service Area.

Providers should note that an existing HiBIS or Broadband Connect Customer who moves to Eligible Premises which have not previously been provided with a HiBIS or Broadband Connect Service is eligible to receive a Broadband Connect Service at those premises. If that Customer is able to transfer any relevant CPE and use that equipment to receive a Service, whether from its existing HiBIS or Broadband Connect Provider or another Broadband Connect Provider, a full Incentive Payment is still payable but the cost of CPE for that Service may be deducted from the Broadband Connect Provider's Allowable Costs.

4.6.1.1 Extension of a Broadband Connect Service to a new Service Area (Amended 11 July 2006 and 1 December 2006)

Where a Broadband Connect Provider wishes to extend a Service to a new Service area, the Provider must advise DCITA in writing, using the New Service Area Application Form, of the proposed expansion of the Broadband Connect Service Area, including an estimation of additional Allowable Costs if applicable. Any maps or descriptions of the new Service Area must be in a format acceptable to DCITA. Once a formal variation to the Deed has been agreed by the Commonwealth and the Provider in writing, noting the new Service Areas and where applicable, noting a date of effect upon which the new Service Area is deemed to have taken effect, the Provider can begin Connecting and Supplying Services to Customers in the new Service Area. Providers must submit all proposed new Service Areas (by completing and lodging a New Service Area Application Form) to DCITA before 5:00pm EST on 31 December 2006.

If a Provider is seeking to update information about their Mapped Service Area(s), the information will be accepted by the Department after 31 December 2006 if the Mapped Service Area is contained within:

1. the Provider's Service Area (as reflected at Item 4 of Schedule 1 of the Provider's Broadband Connect Funding Deed 2006-07 (as varied)); or
2. a proposed new Service Area that is detailed in a new "*Broadband Connect New Service Area Application Form*" that has been lodged with the Department on or before 5:00pm EST on **31 December 2006**.

Service Providers should consider the operation of section 2.8 of these Guidelines before registering Service Areas.

4.6.1.2 Mapping of the area in which the Broadband Connect Service is to be offered (Amended 11 July 2006)

The Applicant or registered Provider must provide DCITA with sufficient information to enable DCITA to map the Service coverage of the Provider's installed infrastructure (Mapped Service Area).

DCITA will use this information to:

- (a) provide indicative advice to customers of the Services available in their area; and
- (b) to determine the eligibility of claims for Incentive Payments in terms of:
 - (i) the Customer's premises being within the nominated Mapped Service Area; and
 - (ii) complying with the 12 month claim period as outlined in section 2.8.

4.6.1.3 Claims for premises within the Service Area but outside of the Mapped Service Area (Amended 11 July 2006)

Where a Provider submits claims for Incentive Payments for Services provided to premises within a Provider's Service Area, but outside of the Provider's Mapped Service Area, then DCITA will not process the claim until:

- (a) the Provider advises that the Service is being provided from existing infrastructure. In this case the Provider must, in writing, provide DCITA with details of the revised Mapped Service Area of that infrastructure; or
- (b) the Provider advises that the Service is being provided by new infrastructure. In this case the Provider must provide DCITA with sufficient information to enable DCITA to map the Service coverage of the Provider's newly installed infrastructure.

Where Service coverage areas are required to be revised in accordance with the above, Providers will have 30 days to do so for claims to be processed.

4.6.2 Broadband Connect Threshold Service Data Speeds (amended 1 December 2006)

A Broadband Connect Threshold Service must be able to meet the Data Speed requirements specified in the definition of the Service (see section 1.3).

Applicants may propose higher peak and/or average Data Speeds than the minimum required for a Threshold Service.

Broadband Connect Added Value Services must also satisfy Data Speed requirements specified in the Applicant's description of the Service and be subject to testing in accordance with DCITA's Data Speed testing requirements (see section 4.6.2.2.3). Average Data Speeds for Added Value Services are not required to be set at 60 per cent of peak Data Speeds at least 75 per cent of the time as for Threshold Services, but an average Data Speed for each Added Value Service must be nominated, and actual performance must be tested against that nominated speed according to DCITA's prescribed methodology. Customers must be informed of the nominated average Data Speed and actual performance against that speed.

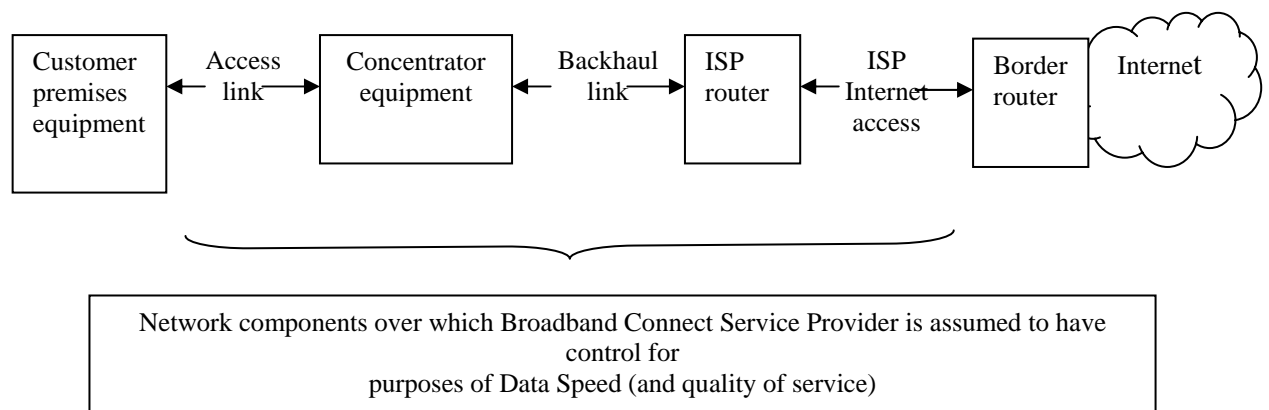
For Added Value Services actual peak and average Data Speeds cannot be less than those required for Threshold Services.

The Applicant's proposed Broadband Connect Services must be configured so that the peak Data Speeds are accurate and represent those that could be achieved by any end-user on the Service as a maximum peak level. The Broadband Connect Provider's network must be configured so that the stipulated average Data Speeds for Services are achieved when measured in the manner specified by DCITA.

These Data Speeds are those attainable over those parts of the infrastructure within the Provider's control, specifically from the border between the Provider's network and the Internet to the border between the Provider's network and the CPE.

The Data Speeds do not refer to end-to-end Data Speeds across the Internet, which are subject to a range of factors beyond the Provider's control. Figure 2 shows the main components of an Internet network and those which are subject to the Data Speed requirements.

Figure 2: Basic Internet network components



Broadband Connect Providers are not in breach of the Data Speed requirements of Broadband Connect if Data Speeds experienced by Customers fall below specified Broadband Connect levels due to circumstances beyond the Provider's control. However, Broadband Connect Providers are responsible for service components within their control, including:

- (a) the access link to the Customer;
- (b) the backhaul link from their concentrator equipment to their ISP router; and
- (c) the ISP's Internet access link between their ISP router and the border router; as shown in Figure 2 above.

Average Data Speeds must be measured independently of caching effects in order to measure the actual performance of the links identified above.

In the case of a Service Provider, it is the responsibility of the Service Provider to ensure that its contract with its wholesale service provider has terms and conditions that enable it to achieve these average Data Speeds on the Service it resells.

If, on the basis of reasonable evidence⁷, a Customer claims that its Broadband Connect Provider is not providing the Data Speeds stipulated, the Provider is required to investigate and deal with the complaint. This may include reasonable efforts to assist the Customer to configure their computer to achieve the required Data Speeds (where this is identified as the constraining factor). Should a Customer consider that a complaint relating to Data Speeds has not been settled to their satisfaction by their Provider, the Customer may refer the complaint to DCITA for investigation; depending on the nature of the complaint, DCITA may then refer the Customer to the TIO for further action (see section 4.6.2.2.1).

4.6.2.1 Data Speed information required at registration

In its application for registration of Broadband Connect Services, an Applicant must provide evidence that it is able to achieve the peak and average Data Speeds required for Threshold Services or, in the case of Added Value Services, the peak and average Data Speeds proposed.

In the case of peak Data Speeds, an Applicant must identify the peak Data Speeds of the proposed Service, show how they have been derived and demonstrate that they are a reliable indication of peak Data Speeds.

In the case of average Data Speeds, an Applicant must provide information to DCITA to demonstrate it can achieve the required or proposed average Data Speeds. To this end, DCITA requires the following information at registration:

- (a) an estimate of the maximum number of Services to be supported by the proposed infrastructure;
- (b) the estimated Service Data Speed mix if applicable – i.e. the respective percentages of 256/64, 512/128, 1500/256 or other Service Data Speeds;
- (c) the total capacity to be provisioned in both the backhaul and ISP Internet Access links, as shown in Figure 2. These figures should be accompanied by a diagram to show where this capacity is located within the Applicant's proposed infrastructure;
- (d) the estimated activity rate per Service during the 16 hour period between 7:00 a.m. and 11:00 p.m. The activity rate is the proportion of time during this period that an end-user is assumed to be actually downloading data; and
- (e) any other information that the Applicant believes is relevant to demonstrating this performance.

These figures should be accompanied by the reasoning and calculations that show how the Applicant will ensure the specified average speed for the proposed Service. If the Applicant wishes DCITA to consider a claim to treat this information as confidential information, it should be identified as such and reasons for such treatment provided.

DCITA may require further information from an Applicant to be satisfied that its infrastructure is configured adequately to support the proposed Services. In particular, DCITA needs to be satisfied that the capacity provisioned and the resulting contention ratios will support the specified average Data Speeds stipulated for the Provider's Broadband Connect Customers.

⁷ In most instances, a Customer would be expected to have undertaken a sufficient number of tests, using DCITA's recommended test facility, to demonstrate that their Provider would likely fail the Broadband Connect Data Speed test for that Service. Customers should contact DCITA for advice on the number of tests required to be run in these circumstances.

4.6.2.2 Monitoring and enforcement of Data Speed compliance

Compliance with average Data Speed requirements is subject to a three-tier monitoring and enforcement regime. The first tier is based on Customer complaints. The second tier is based on average Data Speed monitoring and reporting by Broadband Connect Providers. The third tier is a process of audits by DCITA (or its nominated representatives). These arrangements apply to all Threshold Services and Added Value Services.

4.6.2.2.1 Complaints-based monitoring

DCITA has established an online facility at which Broadband Connect Customers are able to test their average Data Speeds. This facility is at www.bctest.com.au/speedtest.html

Providers are required to supply their Customers with information about the Broadband Connect Customer Data Speed testing facility, including the URL, when they connect the Customer to a Broadband Connect Service. Customer testing needs to be reasonably consistent with the testing schedule specified in section 4.6.2.2.5. In particular, Customers should test their Broadband Connect Service in accordance with DCITA Data Speed test guidelines published on the test website. Where testing undertaken by a Customer using DCITA's testing facility indicates that the Broadband Connect Service is not performing at the required average Data Speed, the Customer should raise the issue with their Broadband Connect Provider and seek an explanation. Customers also need to recognise that such results may be caused by factors outside their Provider's control and therefore may not signify a breach of the Provider's Broadband Connect obligations.

If the Customer is not satisfied by the Provider's explanation, the Customer should take the matter to DCITA. DCITA may require Providers to undergo an examination of Service performance. In some circumstances, DCITA may also refer the Customer to the TIO for further action.

Where complaint data indicates possible systemic non-compliance by a Broadband Connect Provider with its average Data Speed obligations, DCITA may require further formal testing, and, if necessary, rectification of the situation (see section 4.6.2.2.5).

4.6.2.2.2 Inability to achieve the average Data Speed due to exceptional circumstances

After supplying a Broadband Connect Service to a particular Customer it may become apparent that a Provider is unable to provide the average Data Speed required because of exceptional circumstances relating to the supply of that particular Service. For example, the Service may be affected because it is being provided at the limit of the technical range of the platform being used, or the speed is inhibited by environmental features such as topography or vegetation.

In these circumstances, it may be impossible or extremely costly for the Provider to achieve the required average Data Speeds. Where such circumstances are identified, and where the Customer consents, the Provider may propose to DCITA that it withdraw the Customer's Service and repay the Incentive Payment for that Service to DCITA. The affected Customer would then be eligible to receive another Broadband Connect Service from another Provider.

A Provider may continue to provide a Service that is not achieving the required average Data Speed, provided that the Customer has been informed of their right to another Broadband Connect Service as described above, and elects to continue to receive the existing Service. In this circumstance the Incentive Payment would not be repayable by the Broadband Connect Provider to DCITA.

4.6.2.2.3 Data speed monitoring and reporting by Broadband Connect Providers

Broadband Connect Providers are required to:

- (a) maintain test computers and services;
- (b) fully participate in the DCITA Data Speed (Phase 1) testing;
- (c) fully participate in follow-up (Phase 2) testing where initial test results are substandard; and
- (d) where the Provider contends the Data Speed problem is not within its own network, undertake further follow-up (Phase 3) testing within its own network and provide the results to DCITA to confirm this is the case.

Where Phase 2 or 3 testing results indicate a systemic failure by a Broadband Connect Provider to meet its average Data Speed requirements, DCITA may issue a notice in writing requesting that the breach be rectified. If the Provider fails to do this, DCITA may terminate the Deed (see section 5.2).

4.6.2.2.4 Test computers and services

Each Broadband Connect Provider is required to be connected to the DCITA Data Speed test facility and have sufficient test computers to enable DCITA to properly assess whether Broadband Connect Services are being provided to Customers at the required average Data Speeds on each technical platform registered. Testing needs to provide a representative view of the performance of a Provider's overall Broadband Connect operations, including each of the Provider's Threshold and Added Value Services. The test computers must be connected to the Provider's Broadband Connect Services in its Service Areas in the same manner that its Customers are connected to those Services. Test computers must be available to DCITA for Data Speed testing at all times.

As an alternative to setting up test computers, Broadband Connect Providers may enter into arrangements with particular Customers in their Service Areas for those Customers' computers to be used for testing purposes. Such arrangements would need to be on the basis that required tests could be undertaken in the manner specified by DCITA, and that DCITA could have ready access to test computers for follow up investigations and/or audits as required.

Test computers are required to be configured in a manner specified by DCITA for testing purposes. The details of all test computers including their physical locations and network details (e.g. IP addresses) must be provided to DCITA.

Where one or more Providers are providing Services by reselling the services of a Broadband Connect Infrastructure Provider or a wholesale service provider, and where the Providers' services are essentially identical, DCITA will consider proposals for a single testing process for those Broadband Connect Providers.

Broadband Connect Providers must comply with the requirements set out in this subsection to facilitate testing of their Services.

4.6.2.2.5 Data speed testing regime and reporting

The Data Speed testing facility established by DCITA is used by test computers to download and upload a specified file in order to test average download and upload speeds.

The file is to be hosted on a DCITA server or another server with high capacity access to the Internet so that Data Speeds are unlikely to be significantly affected by speed restrictions within the Internet cloud.

To determine that the required Data Speed is achieved at least 75 per cent of the time, data download and upload tests are undertaken by test computers according to the following minimum testing schedule. On one specified day each calendar month, the test computer is required to download and upload the specified file at least once each hour, over a 16 hour period between 7:00 a.m. and 11:00 p.m. The test occurs at a time randomly chosen within each hour.

The Broadband Connect Provider is taken to have met the 75 per cent availability requirement if at least 75 per cent of the test results (i.e. 12 out of 16) show that a download and upload Data Speed of at least 60 per cent of the peak Data Speed has been achieved. DCITA will notify each Provider tested each month of their test result. Providers who failed the testing will be required to take steps to resolve data speed or testing issues within two working days and advise DCITA in writing of what steps have been taken. This is Phase 1 testing.

Where a Provider's Data Speed tests do not achieve the average Data Speeds required during this test, DCITA may require the Provider to enter into a program of daily Phase 2 testing. This means that for a period of three successive days the testing schedule as described above will be carried out. If, after three successive days testing, the results indicate the required average Data Speeds are still not being achieved, DCITA will notify the Provider of the overall test results, and require a possible explanation and description of what remedial action, if any, it intends to take.

Where the Provider contends that its failure to meet the required average Data Speeds is due to factors beyond its control (i.e. factors arising on the Customer's side of the Service Provider interface or between its border router and the test server), the Provider must institute a program of Phase 3 testing of equal or greater frequency to the Phase 2 testing (i.e. at least three successive days). Phase 3 testing is to be undertaken within the Provider's network, between the CPE and the Provider's border router, or such other point as the Provider satisfies DCITA is appropriate given the configuration of its network.

4.6.2.2.6 Quarterly reporting and publication of Data Speeds

Broadband Connect Providers that fail one or more Data Speed tests during the term of the Deed are required to provide a detailed explanation for the fail result and of the action taken in their quarterly compliance reports to DCITA (see section 2.9). Where DCITA scrutiny of this information in the quarterly report identifies non-compliance

that has not previously been advised to it, such non-compliance may give rise to further investigation and/or action by DCITA, including possible de-registration of the Provider, suspension of Incentive Payments and, in some circumstances, reclaiming by the Australian Government of Incentive Payments paid to the Provider.

DCITA publishes monthly on the Broadband Connect website each Provider's average Data Speed test results for each Service tested.

4.6.2.2.7 Audit of Data Speeds

In addition to the above requirements, average Data Speeds for Broadband Connect Services are subject to audits. This may involve DCITA (or its contractors) making arrangements directly with Customers or making site visits to Providers and making use of their facilities. Providers must comply with all reasonable requests in relation to such audits, including making available facilities for audit purposes.

4.6.3 Pricing requirements for the Broadband Connect Threshold Service

Threshold Services supplied under Broadband Connect must meet the pricing requirements specified in the definition of a Threshold Service (see section 1.3). Different pricing requirements apply to Added Value Services and are discussed in section 4.6.11.

A Provider's prices for its Services are specified in its Deed with DCITA and are binding on the Provider.

4.6.3.1 Additional pricing discounts

The price an Applicant proposes for a Threshold Service and Added Value Service must be available for all Eligible Customers within the Provider's Service Area. However, Broadband Connect does not preclude the Provider offering special discounts on the Service to particular groups of Eligible Customers on a commercial basis, subject to compliance with all other relevant laws.

4.6.3.2 Assessing pricing for Broadband Connect Threshold Services

In assessing whether pricing for a Threshold Service meets the prescribed pricing requirements, prices charged over three years for the following items will be taken into account:

- (a) hardware;
- (b) installation (excluding travel costs);
- (c) connection;
- (d) account establishment;
- (e) ongoing provision of the service, including provision of Internet access and a monthly usage allowance of at least 500 MB⁸; and
- (f) any other charges that DCITA decides to take into account.

⁸ As the Threshold Service must include a 500 MB data usage allowance, excess charges will not be considered, except in determining the value of any additional functionality claimed.

A Broadband Connect Service by definition includes provision of Internet access pursuant to a contract, and where this is not proposed, the service will not be registered as a Broadband Connect Service.

For the purpose of assessing the proposed pricing for a Threshold Service, it is assumed that ownership of the CPE passes to the Customer within the three year period over which Broadband Connect pricing is to apply. Where this is not the case, the Applicant's proposed pricing is subject to additional scrutiny to ensure the proposed pricing package reflects the pricing requirements for Threshold Services. Specifically, where the Provider retains ownership of the CPE, DCITA is expecting a pricing discount reflecting the residual value of the equipment to the Provider after three years.

Additional funding is provided for certain travel costs (see section 4.13.9). Travel charges are therefore not included in the assessment of proposed pricing for Threshold Services. Payment of travel costs by DCITA in the circumstances described applies for both Threshold and Added Value Services.

For assessment purposes, the price of a Threshold Service as a package over three years is calculated as follows:

- hardware charges
- + installation (excluding travel charges)
- + connection (if applicable)
- + account establishment (if applicable)
- + monthly (usage) charges (x 36 months)⁹
- + any other relevant charges (x number required in the period)
- = total package price

The pricing must be GST inclusive.

Broadband Connect Providers are required to provide all information relevant to this calculation in their application for registration of a Threshold Service.

4.6.3.3 Calculating credits for additional functionality, features or inclusions

To provide Applicants with some flexibility in how they structure their Threshold Services, Providers may propose Threshold Services which have additional features, functionality or inclusions, and which can be offered at a higher price, up to an additional \$1000 over the three year package. Any additional price (up to \$1000) must be justified by reference to the value of additional features provided. The maximum allowable package prices are therefore \$2500 for an ADSL Threshold Service, \$3000 for all non-ADSL Threshold Services excluding two-way satellite and \$3600 for a two-way satellite Threshold Service.

Applicants are able to propose features and inclusions that could be considered additional, and propose a valuation for them. DCITA will generally only consider as reasonable and acceptable valuations that are based on:

- (a) charges otherwise applied by the Provider as part of its Broadband Connect package; or

⁹ A Threshold Service must include a data usage limit of at least 500 MB.

- (b) charges that the Provider or other Providers charge in the market for the additional functionality or feature.

Additional functionality, features and inclusions, which could be valued for this purpose, are:

- (c) additional usage allowances (including unmetered usage);
- (d) additional Data Speed (that is, additional upload or download speed), where this can be objectively valued; and
- (e) additional security, data prioritisation or other elements that offer functionality that are clearly in addition to standard services, and which offer identifiable value for consumers.

Broadband Connect Providers may propose other functionality, features or inclusions, but such proposals must be substantiated as described in this section.

4.6.4 Bundling of the Broadband Connect Threshold Service and other services

DCITA will not register as a Threshold Service a constructed service bundle; that is, a package of services the constituents of which are generally sold separately (e.g. mobile, higher bandwidth, telephony, pay TV) and the bundling of which is not inherent to the operation of the product.

However, services involving different platforms for data uploading and downloading (e.g. satellite download and an ISDN upload) are acceptable for Broadband Connect registration.

Broadband Connect Providers are able to offer as part of a service bundle a Broadband Connect Service that is identical to their Threshold Service, provided that the Threshold Service is also offered separately as a stand-alone service. Providers should note that bundling conduct is subject to compliance with all relevant laws including trade practices law.

4.6.5 Pricing packages for Pre-existing Customers

Where an Applicant or Broadband Connect Provider is proposing to register a Service which is based on an existing commercial service for which it has Pre-existing Customers in the Broadband Connect Area, it must also register Broadband Connect-compliant Pricing for those Customers, if the price of the existing service is higher than the proposed price for the equivalent Broadband Connect Service.

Broadband Connect-compliant Pricing must offer Pre-existing Customers the same prices that new Broadband Connect Customers would pay for the relevant components of the equivalent Service of that Provider, particularly in regard to monthly usage charges. This requirement applies to both Threshold and Added Value Services.

DCITA will determine, upon application, a partial Incentive Payment for provision of Broadband Connect-compliant Pricing to Pre-existing Customers. Such payment is prospective only, and is based on the cost to the Provider of reducing the price to the Pre-existing Customer for a three year period.

Where a Pre-existing Customer does not have access to Broadband Connect-compliant Pricing because their Provider does not offer an equivalent Broadband Connect Service, then they are eligible to receive either:

- (a) the nearest equivalent Service from their Provider, in which case a partial Incentive Payment will be determined by DCITA; or
- (b) a new Service from another Broadband Connect Provider, in which case a full Incentive Payment will apply.

4.6.6 Period over which Broadband Connect prices must be offered in the Broadband Connect Provider's Broadband Connect Service Area

Subject to any revision of the Program's pricing requirements, Broadband Connect Providers are required to offer Threshold Services at or below their registered prices for the period of the Program. The registered price is specified in each of the Provider's Deeds.

Providers may change the constituent prices within the pricing of Services, provided they do not exceed the total price for the Service that has been registered with DCITA. The Provider must advise DCITA in writing of any proposed changes to constituent prices. The Provider can not implement the new pricing until it has been approved by the Department, and a variation of the Deed has been executed by both the Provider and the Department.

These arrangements also apply to Broadband Connect Added Value Services.

4.6.6.1 Possible price changes

Broadband Connect pricing requirements will be reviewed periodically.

If a review identifies that there have been material increases or decreases in the price of metropolitan Higher Bandwidth Services, DCITA will consider changing the Broadband Connect benchmark prices (and incentive levels) accordingly.

Registered Broadband Connect Providers would then be:

- (a) allowed to seek registration of higher prices if the benchmark prices are increased; and
- (b) required to seek registration of lower prices if the benchmark prices are reduced.

Broadband Connect Services would be required to be offered and supplied at the new prices to all future Eligible Customers.

The application of new Broadband Connect prices to existing HiBIS or Broadband Connect Customers will be considered at the time of the review. The general policy preference is that existing HiBIS or Broadband Connect Customers should receive the benefit of any reductions in pricing, but the feasibility of this would need to be considered at the time.

4.6.7 Period over which registered Broadband Connect prices must be maintained for Customers (Amended 1 December 2006)

A Broadband Connect Provider must supply its Threshold Service to its Customers at or below the price registered and specified for the Service in the Provider's Deed with DCITA for a minimum of three years from the date the Service is first supplied to the Customer, provided the Customer wishes to continue to receive the Service (see below). It is a condition of Providers' Deeds that Providers include and maintain conditions to this effect in their contracts.

This requirement also applies to Added Value Services.

A Provider may allow its Customers to migrate between different pricing plans it offers for Services, but the Provider must always ensure the Customer can return to the pricing plan to which the Customer originally subscribed. Where a Broadband Connect Customer has signed up to a non-Broadband Connect Service, and seeks to return to the original Broadband Connect Plan, the Provider has the option of allowing the customer to return to the original Plan. However, the Provider will not be entitled to receive any additional funding, by way of an Incentive Payment with respect of the returning Customer.

4.6.8 Maximum contract period

Broadband Connect Providers must offer their Customers the option to have a maximum contract period of no longer than 18 months. The Provider may also offer longer contract periods, but only in addition to the option of a maximum contract period of 18 months.

This requirement does not affect the Provider's obligation to offer Broadband Connect Terms and Conditions for at least three years.

This requirement also applies to Added Value Services.

4.6.9 Other commercial terms and conditions

Except to the extent they are inconsistent with the specific objectives and requirements of Broadband Connect, a Provider may include in its standard contract with its Customers its usual terms and conditions relating to the supply of services, including that:

- (a) it is not obliged to connect a Service unless the Customer is considered creditworthy;
- (b) the Customer must comply with the technical operating requirements of the Service; and
- (c) the Customer must comply with other reasonable conditions of use.

Where in the view of DCITA a term or condition is inconsistent with the specific objectives and requirements of Broadband Connect, DCITA may require the modification or removal of the term or condition, as a condition of registering an Applicant and/or its proposed Broadband Connect Service.

Where a Provider's Customer contract makes provision for the use or introduction of an Acceptable Use Policy (AUP), the AUP must be cleared by DCITA for consistency with these Guidelines prior to its use. Changes to any AUP must also be cleared by DCITA prior to their use.

4.6.10 Post-Broadband Connect pricing policy

Each Applicant must set out its intended policy in relation to the terms and conditions of the supply of its Threshold Services once the requirement to supply those Services on Broadband Connect Terms and Conditions expires (i.e. three years after connection).

These policies are not binding on Providers unless they wish to formally commit to them in their Deeds. However, they are required to publish their policies to enable Customers to take them into account in selecting a Broadband Connect Provider.

These arrangements also apply to Added Value Services.

4.6.11 Pricing of Broadband Connect Added Value Services

When registering a Service or a Wholesale Service, a Provider is required to demonstrate that it is appropriately taking into account the relevant Incentive Payment in setting the price of the Service or Wholesale Service.

Where the Incentive Payment is used, in full or in part, to reduce the price of the Broadband Connect Service package, the Provider would need to demonstrate how the pricing for the Service reflects the allocation of the Incentive Payment against Allowable Costs. This would generally be done by reference to the equivalent commercial service on which the Service is based.

Where the Incentive Payment is used to fund a Service Solution rather than to reduce the price of an existing service, the Provider would need to demonstrate that the Incentive Payment is being used to maintain prices at the same level as in other markets (including if relevant metropolitan markets). Any variation from the metropolitan price must be justified by the Provider.

The overall price for Broadband Connect Added Value Services is not necessarily required to be comparable to the equivalent metropolitan service. This reflects the fact that, for some high cost technologies (such as satellite), the provision of the Incentive Payment may not result in comparable pricing for some Added Value Services of significantly higher functionality (e.g. business standard) or bandwidth (e.g. 1.5mbps/256kbps) beyond the Threshold Service.

The price registered for a Service must be available for all Eligible Customers to whom the Service is offered within the registered Service Area. However, the Provider may offer additional discounts or special prices for the Service to particular Eligible Customer groups where particular commercial outcomes have been negotiated, subject to compliance with all relevant laws including trade practices law.

4.6.12 Mandatory requirements for functionality and features of Broadband Connect Services

Services must include the following mandatory functionality and features to be registered as a Broadband Connect Service.

Internet access capability

The Service must include an Internet access service, not just data carriage capability.

Fault reporting and helpdesk

As part of the Service, the Applicant must provide:

- (a) free of charge, fault reporting arrangements that operate 24 hours, seven days a week; and
- (b) a staffed helpdesk, the hours of operation for which are approved by DCITA and published by the Provider.

Usage status information

As part of the Service, the Provider must provide an online means for the Customer to check their usage, if usage limitations apply. Usage information should be updated at least once per day.

Billing

As part of the Service, the Provider must be able, at the Customer's request, to provide billing that shows the Customer's current usage and the associated charge to the Customer.

4.7 Other mandatory technical characteristics

To be registered as a Broadband Connect Service, the Service must also meet the following mandatory technical requirements. These requirements are in addition to the peak and average Data Speed requirements set out in section 4.6.2.

Customer premises equipment (CPE)

The Customer modem must provide user data access via an industry standard data port (e.g. 10/100 Ethernet, USB, IEEE-1394 or PCMCIA).

Network Availability

Network availability is the proportion of the time for which the network is available to originate or receive data over a given period. Network availability refers to the portion of the end-to-end service under the control of the Provider (or their registered Broadband Connect Infrastructure Provider), and broadly includes the links from the Internet border to the Customer equipment border (as per Data Speed performance assessment).

The network availability performance required for Broadband Connect Services is 99 per cent for each 3 month reporting period, for the Broadband Connect Customer base on each technology platform operated by the Provider (e.g. cable, DSL, satellite, wireless, other). Such platforms are determined at the time of registration.

Scheduled downtimes between midnight and 6 a.m. are excluded in assessing network availability performance.

Providers reselling the Wholesale Services of an Infrastructure Provider may make use of network availability data sourced from their Infrastructure Provider, to the extent it accurately reflects the network availability performance of the Provider's Services.

4.8 Timeframes for service connection and restoration

For both Threshold Services and Added Value Services, an Applicant is required to nominate:

- (a) the period in hours or days in which it will generally undertake to connect a Service at premises, other than where a Customer requests or agrees to a longer timeframe; and
- (b) the period in hours or days in which it will undertake to restore service in the event of an outage for which it is responsible, unless a Customer requests or agrees to a longer timeframe.

The times proposed by an Applicant may vary according to factors such as demographics and/or distance from major population centres. Providers are not bound to the timeframes in the event of exceptional circumstances. Such circumstances need to be specified and agreed in advance by DCITA at the time of registration of the Broadband Connect Service.

While the timeframes Applicants propose are generally at their discretion, DCITA may not agree to proposals that are particularly at odds with industry norms or excessively qualified to the detriment of consumers. DCITA reserves the right to decline the registration of a Service where the timeframes are deemed to be unreasonable.

The timeframes proposed by Applicants are included in their Deeds and in their contracts with their Customers, and enforceable in that regard. Providers are also required to include these timeframes and any major qualifications in the information they publish for comparative purposes.

In instances where the Service Connected and Supplied is a 'CSG Service' for the purposes of the Telecommunications (Customer Service Guarantee) Standard 2000 (No.2) ('The Standard'), the timeframes for connection and rectification of faults or service difficulties will be governed by the Standard.

4.9 Assessment of marketing proposals of Applicants

The Applicant must provide a brief description of its marketing strategy, including its intentions in relation to:

- (a) marketing its Broadband Connect Services broadly across its proposed Service Areas; and
- (b) Customer acquisition methods and channels.

DCITA needs to be satisfied that the arrangements the Applicant is proposing are generally consistent with the effective marketing of Broadband Connect Services to Eligible Customers. DCITA reserves the right to reject any application which, in its view, does not make appropriate provision for the marketing of proposed Services.

4.10 Other commitments nominated by the Applicant

Applicants are encouraged to nominate higher levels of functionality and additional features as part of their application for registration of their Threshold Service and Added Value Service. Such offerings are not assessed in deciding whether or not to register the proposed service (except, if relevant, in relation to assessment of a service against the benchmark pricing requirements). Such nominations are included in the Provider's Deed and Providers must identify them in the comparative information they publish (refer to Attachment 9.1).

Once registered, a Provider is able to seek variation of nominated commitments under its Deed, but such variations only have effect on a prospective basis and Customers signed up under the previous contract must be serviced on the terms and conditions of that contract.

4.11 Provision of information for comparison

The Broadband Connect Provider must commit to provide, from the time its Service is offered, information in relation to the Service to enable prospective Customers to compare the Service with those of other Providers. The information to be made available is set out in Attachment 9.1, and is based on the ACMA's ISP Guidelines, supplemented by Broadband Connect specific requirements. The information, which must be set out on the Provider's website, must also be provided in a printed format upon request and included in the Provider's letter to Customers as described in section 4.14.1.

4.12 Other aspects of the registration process

4.12.1 Process for assessing applications

Broadband Connect applications are assessed by DCITA, drawing as necessary on the expertise of other departments and agencies of the Australian Public Service as appropriate (e.g. ACMA, ACCC). DCITA may make use of external consultants to assist it in the assessment of applications.

Once the assessment of the Applicant has been made, it is submitted to the officer of the Senior Executive Service (SES) with immediate responsibility for Broadband Connect, with a recommendation for approval or otherwise, for the officer's consideration. The officer may consult as he/she sees fit prior to deciding whether or not to accept the recommendation of the assessment panel.

4.12.1.1 Applicant rights of review of an unsuccessful application

Where an application for registration:

- (a) as a Broadband Connect Provider and of a Threshold Service;
- (b) as an Infrastructure Provider of Wholesale Service/s;
- (c) of a subsequent Service under Broadband Connect; or
- (d) of a Service Solution/s or subsequent Service Solution/s.

has been unsuccessful, the Applicant may request DCITA to provide a full statement (subject to privacy considerations) of its reasons for refusing the application.

4.12.1.2 Re-application by an unsuccessful Applicant

An unsuccessful Applicant may make a further application for registration under Broadband Connect at any time before 30 June 2006, whether or not they have received a statement of reasons from DCITA.

4.12.2 Variation of a Broadband Connect Provider or service registration (Amended 1 December 2006)

A registered Broadband Connect Provider may seek:

- at any time up to 5:00pm on 31 December 2006, a variation to its registration as a Broadband Connect Provider, or to any Broadband Connect Service it has registered; or
- At any time beyond 31 December 2006, a variation to its registration where that variation is seeking to *modify* their existing registered Service(s) where the modification will provide demonstrated benefits to Customers.

In seeking a variation, the Provider must provide supporting information in writing consistent with the information that is required at the time of registration of a Provider or a Service. Where a proposed variation is accepted by DCITA, the variation is given effect in a variation to the Provider's Deed.

4.12.3 Material changes in a Broadband Connect Provider's circumstances

A Broadband Connect Provider must notify DCITA of any developments in relation to its corporate standing, financial standing, operational or technical capability or sustainability that may affect its ability to supply Broadband Connect Services on the Terms and Conditions required in its Deed. DCITA must be notified of such developments immediately the Provider becomes aware of them.

4.12.4 Changes in a Broadband Connect Provider's structure or ownership

A Broadband Connect Provider must notify DCITA of any changes proposed to its:

1. management;
2. entity structure; and/or
3. ownership.

DCITA must be notified of such developments immediately the Broadband Connect Provider proposes them. Where there is a change or proposal to change management, entity structure and/or ownership, DCITA may conduct financial or other assessments to confirm the Provider's ongoing viability to offer Broadband Connect Services as a result of these changes, before executing a Deed or novation (whichever is appropriate).

4.12.5 Material changes in a Broadband Connect Infrastructure Provider's circumstances

An Infrastructure Provider must notify DCITA of any developments in relation to its corporate standing, financial standing, operational or technical capability or sustainability that may affect its ability to supply Wholesale Services to a Broadband

Connect Provider. DCITA must be notified of such developments immediately the Infrastructure Provider becomes aware of them.

4.13 Incentive Payments

4.13.1 Incentives payable in relation to claims lodged (Amended 1 December 2006)

Incentives become payable by DCITA after a Broadband Connect Provider has Connected and Supplied a Broadband Connect Service to an Eligible Customer at Eligible Premises, and submitted a valid claim for payment via Broadband Connect Online. A claim for payment **must** be made within 45 days after the Provider has Connected and Supplied the Broadband Connect Service to the Customer. A Provider must not disconnect and reconnect an Eligible Customer at Eligible Premises where this disconnection and reconnection in order to meet the 45 day lodgement timeframe for claims under the Provider's Broadband Connect Funding Deed.

4.13.2 12-month timeframe for receiving Incentive Payments in a specified Mapped Service Area (Amended 11 July 2006)

Where a Provider has deployed into a Service Area Last-mile Infrastructure, capable of supporting multiple premises, the timeframe within which Services Connected and Supplied can be claimed is restricted to 12 Months for each Provider. This period commences from the date on which a Provider's first Broadband Connect Service has been Connected and Supplied within a specified Mapped Service Area, following the deployment of Last-mile Infrastructure relating to the Service's provision in the specified Service Area (i.e. enablement of an exchange for ADSL services, laying of fibre optical cable, installation of wireless transmission equipment). For more information see section 2.8.

4.13.3 Funding allocation

A set amount of funding is available for the Broadband Connect program. Providers are required to provide DCITA with a regular monthly forecast of their estimated call on funds for the following six-month period of the Deed to assist DCITA in managing the Broadband Connect funding allocation.

Advice will be provided to all Providers when allocations remaining are at \$20 million, \$10 million and \$5 million. An indication will also be provided as to approximately how many days of Customer registration activity the remaining funding represents, based on the level of activity at that time.

When the balance of available funding in a financial year reaches \$5 million, all Providers will be notified that they are no longer obliged under their Deed to connect new Services under Broadband Connect.

4.13.4 Full Incentive Payments for new Broadband Connect Customers (Amended 11 July 2006)

The Incentive Payment payable in relation to new Broadband Connect Customers are divided into two categories:

- (a) the Standard Incentive Payment (ISDN-areas) of \$1540 (including GST); and

(b) the High Cost Incentive Payment of \$3300 (including GST).

These Incentive Payments are made to Providers according to the procedures set out in sections 4.13.5 to 4.13.8. The full Incentive Payment is paid to a Provider for each Broadband Connect Service provided to an Eligible Customer at Eligible Premises, provided that the Provider's Allowable Costs have not been exceeded. In some circumstances, however, payments for each Service:

- (a) may be lower (i.e. in the case of Pre-existing Customers); or
- (b) may cease over time (i.e. when Allowable Costs are exceeded).

Sections 4.13.10 and 4.13.12 describe when and how this may occur.

A Provider is not eligible to receive an Incentive Payment for any Services Connected and Supplied within a Mapped Service Area if the 12-months claims period for that Mapped Service Area has expired for that Provider (see section 2.8).

4.13.5 Standard Incentive Payment (ISDN access) - \$1540

A Standard Incentive Payment of \$1540 applies for Broadband Connect Services supplied to Eligible Premises (as defined in section 3.2) where Telstra's ISDN service is available (as defined in these Guidelines) at the time the Customer applied for a Broadband Connect Service

4.13.6 High Cost Incentive Payment (non-ISDN areas) - \$3300

A High Cost Incentive Payment of \$3300 applies for Broadband Connect Services supplied to Eligible Premises (as defined in section 3.2) where Telstra's ISDN service is not available (as defined in these Guidelines) at the time the Customer applied for a Broadband Connect Service.

4.13.7 Process for determining Standard or High Cost Incentive Payments (Amended 13 June 2006 and Further Amended 1 December 2006)

For the purposes of Broadband Connect, availability of ISDN is assessed according to the following process, which must be undertaken by Providers who are seeking to establish the relevant Incentive Payment for particular Eligible Premises and must only be undertaken where the Provider holds an order from the customer for a Broadband Connect Service:

1. Use the automated ISDN Service Qualification Tool, available through Broadband Connect Online Management System (BCOMS) to establish whether a particular telephone service has ISDN availability. This test provides information that is current at the time of the enquiry, and must be undertaken at some point in time between the start of HiBIS on 8 April 2004 and up to 28 days after the Customer has been Connected and Supplied with a Broadband Connect Service. Broadband Connect will accept the result of a Telstra Service Qualification test as a basis for determining whether a High Cost Incentive Payment is payable. The only information required is the Customer's premises' 10 digit telephone number.
2. If the premises does not have a fixed telephone number, the Broadband Connect Provider must contact Telstra Wholesale directly, via an email address given to

- all Providers, to check ISDN availability. Mobile telephone numbers must not be used to check ISDN availability.
3. If the response to an enquiry is negative, it indicates that the particular telephone service is not currently ISDN capable. The Broadband Connect Provider is to keep a copy of the response to the enquiry as confirmation that a High Cost Incentive Payment applies for a Broadband Connect Service provided to an Eligible Customer at Eligible Premises to which that telephone service is connected.
 4. If the response is positive, it indicates that the particular telephone service is currently ISDN capable, being supported by an ISDN enabled exchange and not being impaired by technologies such as Pair Gain System (PGS) or Remote Integrated Multiplexer (RIM), or beyond the distance transmission limits of ISDN.

Should these enquiries conclude that the particular telephone service is currently ISDN capable but the customer has been informed by Telstra that the service is not ISDN capable, the customer may make an attestation to that effect, in accordance with section 3.5.3 of the Guidelines. Enquiries by customers to Telstra should only be for the purpose of obtaining an ISDN service, not for the purpose of testing the accuracy of the ISDN Service Qualification Tool.

Any doubt as to the Incentive Payment should be referred to DCITA and DCITA will make a determination.

For the purposes of Broadband Connect, Providers must use the ISDN Service Qualification tool available via BCOMS. The ISDN Tool available on the Telstra public website at www.telstra.com.au/isdn/avail.htm is **not** to be used for the purposes of Broadband Connect because a positive test result using this publicly-available Tool indicates only that the telephone service is supported by an ISDN enabled exchange. The test does not assess whether availability of ISDN at the particular Premises is impaired by use of technologies such as PGS or RIM, or distance from the telephone exchange.

4.13.8 Telstra-specific limitations in relation to certain High Cost Incentive Payments

Telstra's access to High Cost Incentive Payments is qualified in the following instance.

Where at the start of HiBIS on 8 April 2004 (or for Imminent Access areas at 31 December 2004) a premises was in an ADSL-enabled exchange service area but did not have access to ADSL because of the effect of a PGS, RIM or other similar equipment, if Telstra supplies a Broadband Connect Service to these premises (including by removing any of these inhibitors), it is only eligible for the Standard Incentive Payment of \$1540, even if the premises did not have access to ISDN and would otherwise have qualified for the High Cost \$3300 Incentive Payment.

4.13.9 Travel allowance in certain circumstances

Where a Broadband Connect Service which is eligible for a High Cost Incentive Payment is being provided in Remote Australia, a travel allowance is payable to the Broadband Connect Provider where a claim for a travel allowance is submitted via Broadband Connect Online as part of a valid claim for a High Cost Incentive Payment for a Broadband Connect Service and on acceptance by DCITA of the travel allowance claim, according to the following:

- (a) no payment unless the travel distance exceeds 100 kilometres each way (that is, a round trip of more than 200 kilometres);
- (b) no payment where the exchange is in the Remote Australia, but the Customer's premises are not;
- (c) payment is on the basis of \$1.10 per kilometre travelled beyond the 200 kilometres round trip; and
- (d) the payment is capped at \$1100 per service installed (GST included).

Travel distance is defined as the distance travelled from the depot from which the installer departs for the job to the point of installation (and return).

Where multiple installations occur on a journey, the travel distance is deemed to be one journey only - that is, the distance travelled from the depot to reach the installation site furthest from the depot.

If a Provider needs to make more than one visit to a Customer to complete an installation, a travel allowance may be claimed for those additional visits. However, the visits are to be treated cumulatively for the purposes of the cap on travel allowance. For example, if an installation requires two round trips of 600 kilometres each, both trips can be counted, but only to the value of 1,000 kilometres or \$1100.

Travel allowance is payable for both Threshold Services and Added Value Services.

A list and indicative maps of ESAs deemed to be remote for the purpose of claiming Broadband Connect travel costs is available on the Broadband Connect website.

4.13.10 Partial Incentive Payments

Partial Incentive Payments apply in certain circumstances.

Where a Provider has registered pricing for Pre-existing Customers (see section 3.4.3) a partial Incentive Payment applies. The Incentive Payment made by DCITA in these circumstances is established at the time of registration of the Pricing for Pre-existing Customers, and reflects the reasonable cost of providing Broadband Connect-compliant Pricing for these Customers for a three-year period. In establishing the payment, DCITA may take into account:

- (a) the administrative costs of migrating Customers to the new pricing package;
- (b) the difference between existing price levels and those required under Broadband Connect; and
- (c) the extent to which the Broadband Connect Provider has already recovered the cost of CPE and other capital costs from the Customer.

In cases where migrating the Customer's service to Broadband Connect-compliant Pricing requires significant replacement of equipment and/or other additional Allowable Costs, a full Broadband Connect Incentive Payment may be determined at DCITA's discretion.

4.13.11 Allocating Incentive Payments against Allowable Costs

Broadband Connect Incentive Payments are intended to assist Providers to supply Broadband Connect Services in regional and rural areas at metropolitan comparable prices by contributing to the costs of providing these Services.

The Broadband Connect Incentive Payments may be allocated against three categories of costs, all of which must be incurred after the start of HiBIS, and must be able to be attributed directly to the cost of providing Broadband Connect Services. These categories are:

1. costs of Broadband Connect compliance;
2. costs that are incurred in advance of implementing a Service Solution and signing up Customers; and
3. costs that are incurred for each Customer signed up.

1. Costs of Broadband Connect compliance

These are the costs of participating in and complying with Broadband Connect, and include the following costs:

- (a) developing products and systems for performance testing;
- (b) developing systems to make it possible for the Provider to comply with the reporting requirements of Broadband Connect; and
- (c) administrative costs of other arrangements that are specific to Broadband Connect, and would not be incurred in the normal operation of the business.

2. Costs that are incurred in advance of implementing a Service Solution and signing up Customers

These include up-front costs that are incurred to enable the Broadband Connect Provider to sign up future Broadband Connect Customers. These would typically be 'lumpy' costs, and would include costs for:

- (a) planning approvals;
- (b) site acquisition;

- (c) building structures and enclosures to house equipment;
- (d) establishing an uninterrupted power supply;
- (e) purchasing and installing of equipment such as switching equipment, where directly related to switching a Higher Bandwidth Service, DSLAM chassis and racks etc.;
- (f) installing cabling and associated facilities for a local access network;
- (g) wireless towers, transceivers and repeaters;
- (h) replacing a blocking PGS or RIM with systems that can service more than one Customer;
- (i) terrestrial backhaul; and
- (k) satellite transponder capacity.

3. Costs that are incurred for each Customer signed up

These are costs that are incurred when connecting each new Customer to a Broadband Connect Service. Key examples of these costs are the cost of items such as:

- (a) CPE and its installation;
- (b) DSLAM line cards;
- (c) one off ULL connection fees; and
- (d) in the case of re-sellers, wholesale charges, as a reasonable proxy for other Allowable Costs identified in Category 2.

At the time of registration, Providers must estimate and report on category 2 and 3 Allowable Costs for each Service Solution.

Costs are only allowable if incurred to provide a Broadband Connect Service. Hence, the cost of any items, like backhaul or transponder capacity for example, that are shared between Broadband Connect Services and other services, may only be included as Allowable Costs to the extent these costs are incurred in supplying a Broadband Connect Service. Service Providers and Infrastructure Providers are required to justify the allocation of any portion of such shared costs to the provision of Broadband Connect Services.

Costs that are excluded from Allowable Costs include the following:

- (a) general administrative costs of operating the business, including staff costs, and corporate and business overheads, such as office rental, power, computing, insurance and travel;
- (b) general marketing costs unless particular marketing costs can be demonstrated to relate specifically to a Provider's Broadband Connect Services or to the Broadband Connect proportion of its total business. In all cases, each Provider's marketing costs can not exceed 45 per cent of their total Allowable Costs;
- (c) network and technical costs that are of a general nature and cannot be specifically or sufficiently identified and apportioned to the cost of providing Broadband Connect Services; and
- (d) staffing costs not associated with Categories 1-3 identified in this section. More general staffing costs that could be expected to be incurred in undertaking any general form of business supplying services to customers, and so not specific to Broadband Connect, are not allowable.

Points (a-d) above do not represent an exhaustive list of exclusions from allowable costs.

Where Providers are uncertain about whether a cost would be allowable, they should contact DCITA for written confirmation. Copies of such written advice should be retained

by the Provider if they subsequently include the relevant costs in their annual reconciliation

(see section 4.13.12). For all Allowable Cost categories, DCITA will undertake industry benchmarking to determine acceptable rates. Service Providers and Infrastructure Providers may be required to justify any Allowable Costs that DCITA deem excessive.

Allowable Costs incurred in relation to Services are not subject to the 12-month restriction.

4.13.12 Process for reconciling Incentive Payments against Allowable Costs

The process for reconciling Incentive Payments against Allowable Costs is as follows.

At the time of registration, each Service Provider and each Infrastructure Provider must provide an Allowable Cost estimate statement, as defined in section 4.13.11, for the period of the Deed. One statement of costs is required per Provider. The cost statement must provide details of estimated costs for the period of the Deed for each of the Allowable Cost categories. Unit costs and unit and Customer numbers must be provided where appropriate to justify costs. Providers are also required to provide DCITA with an updated version of this statement on a quarterly basis.

At the end of each financial year, an audited statement of Allowable Costs incurred in that financial year must be provided, which will be compared with the Incentive Payments received by the Service Provider or Infrastructure Provider during the financial year. The Incentive Payments paid will be offset against the total sum of the Allowable Costs. The reconciliation process for Allowable Costs outlined in this section will be applied to costs incurred during the period of the Deed.

At any time, if DCITA identifies that Incentive Payments are in excess of Allowable Costs and that it is not likely that further Allowable Costs will be incurred, DCITA may require the full re-payment of excess Incentive Payments.

4.13.13 Overall cap on Incentive Payments paid to individual Broadband Connect Providers

If a Provider receives 60 per cent or more of the total amount of Broadband Connect funds that are available for the period of the Deed, or over the life of Broadband Connect (from both retail and wholesale sources), that Provider will generally become ineligible to receive any further Incentive Payments from retail and wholesale operations in the applicable period.

DCITA will monitor the status of Incentive Payments to Service Providers and Infrastructure Providers against this Funding Cap. DCITA will notify Service Providers and/or Infrastructure Providers when claims submitted to DCITA equal 70 per cent, 80 per cent, 90 per cent and where the claims submitted by the Provider total an amount equal to 100 per cent of the Funding Cap. The Funding Cap is deemed to have been reached when there are insufficient funds available under the Cap to pay an Incentive

Payment. Once 100 per cent of the cap is achieved by a Provider, DCITA will not make any further Incentive Payments to that Provider whatsoever for any Services Connected and Supplied after the notice is granted or for any outstanding claims submitted by the Provider.

Where the Provider has reached the individual cap, it is not obliged to offer new Broadband Connect Services.

Where an Infrastructure Provider is no longer receiving a proportion of Broadband Connect Incentive Payments because the individual cap has been reached, it nevertheless may be required to continue to provide Wholesale Services to Service Providers if its contracts with those Providers so require.

4.13.14 Taxation status of Broadband Connect Incentive Payments

The Broadband Connect Incentive Payments and travel allowances stated in these Guidelines are inclusive of GST. Providers are responsible for managing all taxation matters associated with receipt of Broadband Connect Incentive Payments.

4.13.15 Process for registering new Customers and claiming Broadband Connect Incentive Payments

The Provider makes its claim for Incentive Payments via Broadband Connect Online. Claims must be submitted via Broadband Connect Online within 45 days of Connection and Supply of the Service to the Customer.

Claims will not be accepted by DCITA unless, when submitted, the address for the premises to which the Broadband Connect Service was supplied includes:

- a) street number or Lot/Block/Section number;
- b) street name;
- c) locality;
- d) postcode; and
- e) State or Territory.

Where a street name, street number or Lot/Block/Section number does not exist, longitude and latitude should be supplied in addition to all other criteria listed above. Property names cannot be used by themselves, and need to be accompanied by the minimum information outlined above. PO Boxes and RMBs are not valid premises addresses; the number '0' is not considered a valid street number.

Claims for Incentive Payments for Services Connected and Supplied to Small Businesses must accurately identify the Business' number of FTEs.

4.13.16 Payment of Broadband Connect Incentive Payments

At the end of each calendar month, claims submitted in the preceding month are reconciled by DCITA. The total of claims for each Provider is treated as the Provider's monthly invoice for the purpose of Incentive Payments, once the claims have been approved by DCITA. Providers are given the opportunity to confirm this total. In the event of any discrepancy between the Provider's own records and Broadband Connect Online, the onus is on the Provider to demonstrate the error and to substantiate any

request for correction. Providers must report to DCITA any over-payment of Incentive Payments immediately such an over-payment is identified.

In all instances, the Incentive Payments paid to Providers are subject to repayment in the event that a claim is found to have been wrongly made or paid, regardless of the party at fault.

4.14 Acknowledgment of Broadband Connect as an Australian Government initiative (Amended 1 December 2006)

Broadband Connect Providers are required under their Deed with DCITA to acknowledge clearly and prominently Broadband Connect as an Australian Government initiative, in all instances where the Provider is undertaking marketing of Broadband Connect Services. This includes marketing in all forms of media.

The exact words of acknowledgment required to be used are as identified by DCITA, and may change from time to time depending on Australian Government policy. The range of material on which such acknowledgment is required is as specified by DCITA, and would normally include:

- a) publicity brochures and other printed material for Broadband Connect Services, including media releases, banners, posters and billboards;
- b) websites relating to Broadband Connect Services;
- c) advertisements in any media, including internet advertisements;
- d) events involving the promotion of Broadband Connect Services;
- e) speeches relating to Broadband Connect Services;
- f) scripts for telemarketers marketing Broadband Connect Services; and
- g) billing relating to Broadband Connect Services, for the duration that the service is provided under Broadband Connect Terms and Conditions (i.e. three years).

Broadband Connect Providers must be available to support Australian Government publicity associated with Broadband Connect, as advised by DCITA. Providers are required to invite Australian Government officials to participate in publicity events they undertake relating to their Broadband Connect activities.

Providers are also required to clear all forms of promotional or marketing material relating to their Broadband Connect Services prior to the materials' use or publication. This includes, but is not limited to, the examples of material outlined in points (a) to (g) in this section. If a Provider is uncertain as to whether certain materials or activities would require such clearance, they are required to contact DCITA for advice prior to publishing the material or undertaking the activity.

Providers are also responsible for the clearance with DCITA of promotional or marketing materials developed or published by entities affiliated with or subsidiary to the Provider where the materials relate to the registered Provider's Broadband Connect Services.

A registered Provider must not undertake any conduct (either directly or indirectly) that represents to the public that an Internet service provider or other entity who is not registered under Broadband Connect is in fact registered or somehow associated with Broadband Connect.

Further, an Internet service provider who is not a registered Provider must not publish material, or undertake any conduct (either directly or indirectly) that may misrepresent to the public that it is in fact a registered Provider or that its services are Broadband Connect Services.

4.14.1 Confirmation and advice to Broadband Connect Customers

Broadband Connect Providers must write (by post or email) to each Broadband Connect Customer at the commencement of a Broadband Connect Service to that Customer, confirming the specific Terms and Conditions that the Broadband Connect Provider has included in its contract with the Customer in accordance with the Provider's Deed. The text of the letter or email is required to be approved by DCITA when the Provider applies for registration under Broadband Connect, and must include the following information:

- acknowledgment of Broadband Connect as an Australian Government initiative (see section 4.14);
- the specific amount of the Incentive Payment for which the Broadband Connect Provider is eligible on provision of the Broadband Connect Service;
- the comparative information that the Broadband Connect Provider is required to make available on its website in accordance with section 4.11;
- for Threshold Services, the Program's requirement for the Service to achieve average data download and upload speeds of at least 60 per cent of the Service's specified peak speeds at least 75 per cent of the time, as measured according to a prescribed Broadband Connect testing schedule;
- for Added Value Services, the requirement for the Service to achieve the specific average data download and upload speeds specified in the Provider's Funding Deed, as measured according to a prescribed Broadband Connect testing schedule;
- the website address for the DCITA data speed measuring facility, and identification of this as the definitive tool for Customers to use to measure the speed of their Broadband Connect Service;
- the availability of monthly updated reports of DCITA's testing of the Provider's Service speeds performance, at www.dcita.gov.au/communications_for_consumers/funding_programs__and__sUPPORT/broadband_connect/broadband_connect_incentive_program ;
- the Provider's own contact email or phone number for Customer complaints or queries;
- DCITA's contact details, as provided in section 7, for Customer complaints or queries;
- a summary of the Broadband Connect process for registering Customer complaints about their Service. Specifically, that: (1) the Customer should seek to resolve the issue with their Broadband Connect Provider in the first instance; (2) if the Customer considers that their Provider's response has not been satisfactory, they should then contact DCITA to seek resolution; and (3) depending on the nature of the complaint, DCITA may in some cases refer the Customer on to the TIO for further action or investigation;
- the requirement for Customers to first contact DCITA for advice if they believe that they are not receiving an adequate Broadband Connect Service from their

current Provider, and wish to seek a Broadband Connect Service from another registered Provider. This step is required in order for a Customer to be able to confirm their ongoing eligibility for a new Broadband Connect Service;

- acknowledgment of the Broadband Connect requirement for the Customer to experience network availability 99% of the time (see section 4.7);
- the timeframes for Service connection and restoration identified by the Provider in its application for Broadband Connect registration (see section 4.8);
- where the Provider's Customer contract makes provision for the application of an Acceptable Use Policy, clear advice on the potential scope of the AUP and how it may be applied to Broadband Connect Customers' Services (see section 4.6.9)
- the Provider's Exit Strategy, including its strategy for withdrawal of Service, as advised in its application for Broadband Connect registration (see section 4.5.8); and
- the requirement for the Provider to continue to offer the Customer the same Threshold or Added Value Service at or below its registered price for a minimum of three years from the date the Service is first supplied to the Customer (see section 4.6.7).

Changes to the text of the letter or email must be approved by DCITA prior to use. Broadband Connect Providers must also publish this information on their website. The text of this website information is required to be cleared with DCITA prior to its publication, and prior to any subsequent amendment following DCITA's initial clearance.

4.15 Compliance with research and evaluation

Broadband Connect Providers are required to comply with reasonable requests to participate in research into, and evaluation of, the operation and effectiveness of Broadband Connect, by DCITA or other Australian Government agencies. Such compliance may include providing records, responding to questionnaires, and assisting with Customer surveys.

5 Record-keeping, monitoring and reporting

This chapter sets out requirements for monitoring, reporting and enforcing compliance with Broadband Connect.

5.1 Record keeping

Appropriate and adequate records must be maintained to enable a Provider to satisfy all Broadband Connect claims, auditing, compliance reporting, and review and evaluation requirements.

The need to retain a record applies to those created in all formats or media. This includes digital records created via email and or websites. Providers must capture and retain full and accurate electronic records if they refer to Broadband Connect and the provision of any service or equipment.

In regard to digital records, Providers should develop a digital record preservation strategy to ensure that the digital records they create are adequately preserved over time and remain accessible and functional, even over successive changes in technology. It is vital for digital records to remain authentic and readable to support the business needs of DCITA, to guarantee democratic accountability, to protect the rights and entitlements of consumers, and to support future research. Digital records are subject to the same legislation as other forms of records.

Records that must be retained include information relating to:

- (a) corporate standing and sustainability (as provided for in the registration process);
- (b) technical capability (as provided for in the registration process);
- (c) financial standing (as provided for in the registration process);
- (d) Services registered under Broadband Connect;
- (e) Allowable Costs incurred in providing Broadband Connect Services;
- (f) marketing activities related to Broadband Connect Services;
- (g) Service performance for registered Broadband Connect Services;
- (h) Customers provided with Broadband Connect Services;
- (i) Incentive Payments claimed and received by the Broadband Connect Provider;
- (j) the value of payments made to Broadband Connect Infrastructure Providers (where relevant); and
- (k) Customer complaints.

Information relating to participation in Broadband Connect must be kept in a particular form, if specified by DCITA in writing.

Records in relation to each claim for an Incentive Payment must include, but are not limited to, the following information:

- i. Broadband Connect Customer application and attestation;
- ii. signed and dated copy of the contract between the Broadband Connect Provider and the Broadband Connect Customer;
- iii. evidence of the Broadband Connect Customer's acceptance of the contract Terms and Conditions;

- iv. evidence that the Contract terms were communicated to the Broadband Connect Customer prior to execution of the Contract;
- v. evidence that a connection to a Broadband Connect Service was established;
and
- vi. evidence that the Broadband Connect Provider has confirmed the status of ISDN for the premises to which the claim relates, and the dates when such status was checked.

5.1.1 Duration of record-keeping

A Broadband Connect Provider must retain all records, as identified by DCITA, for no less than seven years after the end of Broadband Connect.

5.2 Failure to comply with Deed

As soon as a Provider becomes aware that it has failed to meet its obligations under its Deed, it must report such failure to DCITA, and take immediate steps to rectify the failure.

Where DCITA notifies a Provider that the Provider is in breach of its obligations under its Deed, the Provider must rectify the breach within 10 Working Days of receiving the notice. If the Provider fails to do so, DCITA may terminate its Deed with the Provider.

6 Variation of the Guidelines

DCITA reserves the right to vary these Guidelines in light of changes to Government policy and ongoing experience with Broadband Connect.

Prior to any variation in the Guidelines, DCITA's policy would be to consult with Providers, and more generally if the variations being considered would have a material effect on the wider community. The effect of any changes on the pre-existing interests of relevant parties would be taken into account.

DCITA will notify all Providers if the Guidelines are varied.

7 DCITA contact details

(Amended 1 December 2006)

Queries relating to these Guidelines, the ongoing operation of Broadband Connect or applications by Broadband Connect Providers should be directed in writing to:

Manager, Broadband Connect Provider Management
Broadband Infrastructure Branch

Department of Communications, Information Technology and the Arts

Post: GPO Box 2154, Canberra, ACT 2601

Email: bcproviders@dcita.gov.au

Phone: 1800 883 488

8 Attachments and other Broadband Connect documents

The following attachments are part of these Guidelines.

<u>Number</u>	<u>Attachment</u>	<u>Section where referenced</u>
9.1	Standard comparative information to be published for Customers	4.11
9.2	Standard Broadband Connect provisions for the Customer application and attestation form	3.5.3
9.3	Summary of annual compliance reporting requirements common to all Broadband Connect Providers	2.9

The following key documents are available on the Broadband Connect website:

<u>Number</u>	<u>Document</u>	<u>Section where referenced</u>
1.	Standard Broadband Connect Deed	4.4.5
2.	Broadband Connect Provider application form	4.4.7
3.	Broadband Connect Service application form	4.4.7
4.	Broadband Connect Infrastructure Provider application form	4.4.7
5.	Broadband Connect Financial Plan template (financial plan/projection of Applicants) and guide	4.5.7
6.	Broadband Connect New Service Area Application Form	Error! Reference source not found.
7.	Broadband Connect Multiple Service Pricing Table	nil

The following Broadband Connect resources are (or will be) available on the Broadband Connect website:

<u>Number</u>	<u>Resource</u>	<u>Section where referenced</u>
Metropolitan Exclusion Area		
1.	Indicative maps of the Urban Centres/Localities boundaries for the Metropolitan Exclusion Area	3.2.1 3.5.1
Pre-existing access to Metro-Comparable Higher Bandwidth Services		
2.	Indicative maps of Metro-comparable coverage at the start of HiBIS on 8 April 2004 in the Broadband Connect Areas	3.2.2.1
3.	Indicative map of Imminent Access	Nil
4.	List of numbers of telephone services	Nil

	provided with access to ADSL in existing enabled exchanges following the start of HiBIS on 8 April 2004 and following the provision of Imminent Access	
5.	Confirmation of the provision of List of Service Providers and areas identified for Imminent Access purposes	3.2.2.3
ISDN availability		
7.	Online tool for checking Telstra ISDN availability (available to registered Providers only)	4.13.6
8.	List of numbers of telephone services provided with access to ISDN following the publication of the Guidelines	Nil
Remote Areas for travel cost purposes		
9.	List and indicative maps of Telstra exchange service areas deemed to be remote for the purpose of paying travel costs	1.3 4.13.9
Broadband Connect Service coverage maps		
10.	Indicative maps of Service Areas for Broadband Connect Services	4.6.1.1