



Telecommunications Legislation Amendment Act 1999

No. 52, 1999



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**An Act to amend the law relating to
telecommunications, and for other purposes**

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Telecommunications Legislation Amendment Act 1999

No. 52, 1999

An Act to amend the law relating to telecommunications, and for other purposes

[Assented to 5 July 1999]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Telecommunications Legislation
Amendment Act 1999*.

2 Commencement

- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
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- (2) Subject to subsection (3), Schedule 2 commences on 1 January 1999.
 - (3) If the 28th day after the day on which this Act receives the Royal Assent is later than 1 January 1999, Schedule 2 commences on that 28th day.
 - (4) Subject to subsection (5), Schedule 3 commences on the commencement of section 1 of the *Telecommunications (Consumer Protection and Service Standards) Act 1999*.
 - (5) If the *Legislative Instruments Act 1999* does not commence before the commencement of section 1 of the *Telecommunications (Consumer Protection and Service Standards) Act 1999*, the amendments of the *Legislative Instruments Act 1999* made by Schedule 3 commence immediately after the commencement of the *Legislative Instruments Act 1999*.
 - (6) Schedule 4 commences on 1 July 1999.

3 Schedule(s)

Subject to section 2, each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Amendments commencing on Royal Assent

Telecommunications Act 1997

1 After subsection 246(2)

Insert:

- (2A) To avoid doubt, there is only one Telecommunications Industry Ombudsman scheme, namely, the scheme operated by Telecommunications Industry Ombudsman Limited (ACN 057 634 787).

2 Subsection 564(3) (note 4)

After “obligations”, insert “, and certain ancillary obligations,”.

3 Subsection 571(3) (note 4)

After “obligations”, insert “, and certain ancillary obligations,”.

4 After clause 27 of Schedule 1

Insert:

27A Code relating to access to information

- (1) The ACCC may, by written instrument, make a Code setting out conditions that are to be complied with in relation to the provision of information, or access to information, under clause 21, 22, 23, 24 or 25.
- (2) A carrier must comply with the Code.
- (3) This clause does not, by implication, limit a power conferred by or under this Act to make an instrument.
- (4) This clause does not, by implication, limit the matters that may be dealt with by codes or standards referred to in Part 6.

- (5) Subclauses (3) and (4) do not, by implication, limit subsection 33(3B) of the *Acts Interpretation Act 1901*.
- (6) An instrument under subclause (1) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

5 After clause 29 of Schedule 1

Insert:

29A Code relating to consultation

- (1) The ACCC may, by written instrument, make a Code setting out conditions that are to be complied with in relation to consultations under clause 29.
- (2) The Code may specify the manner and form in which a consultation is to occur.
- (3) Subclause (2) does not, by implication, limit subclause (1).
- (4) A carrier must comply with the Code.
- (5) This clause does not, by implication, limit a power conferred by or under this Act to make an instrument.
- (6) This clause does not, by implication, limit the matters that may be dealt with by codes or standards referred to in Part 6.
- (7) Subclauses (5) and (6) do not, by implication, limit subsection 33(3B) of the *Acts Interpretation Act 1901*.
- (8) An instrument under subclause (1) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

Trade Practices Act 1974

6 Section 151AA

Omit:

- | |
|--|
| <ul style="list-style-type: none">• The Commission may issue a notice stating that a specified carrier or carriage service provider has contravened, or is |
|--|

contravening, the competition rule. The notice is called a ***competition notice***.

- A competition notice is prima facie evidence of the matters in the notice.

substitute:

- The Commission may issue a notice stating that a specified carrier or carriage service provider has engaged, or is engaging, in anti-competitive conduct. The notice is called a ***Part A competition notice***.
- Proceedings for the enforcement of the competition rule (other than proceedings for injunctive relief) must not be instituted unless the alleged conduct is of a kind dealt with in a Part A competition notice that was in force at the time when the alleged conduct occurred.
- The Commission may issue a notice stating that a specified carrier or carriage service provider has contravened, or is contravening, the competition rule. The notice is called a ***Part B competition notice***.
- A Part B competition notice is prima facie evidence of the matters in the notice.

7 Section 151AA

After:

- The Commission may make record-keeping rules that apply to carriers and carriage service providers.

insert:

- Carriers and carriage service providers may be directed by the Commission to make certain reports available for inspection and purchase. The direction is called a ***disclosure direction***.

8 Section 151AB (definition of *competition notice*)

Repeal the definition, substitute:

competition notice means:

- (a) a Part A competition notice; or
- (b) a Part B competition notice.

9 Section 151AB

Insert:

disclosure direction means a direction under subsection 151BUB(2) or 151BUC(2).

10 Section 151AB

Insert:

listed carriage service has the same meaning as in the *Telecommunications Act 1997*.

11 Section 151AB

Insert:

Part A competition notice means a notice issued under subsection 151AKA(1) or (2).

12 Section 151AB

Insert:

Part B competition notice means a notice issued under subsection 151AL(1).

13 Paragraph 151AJ(2)(b)

Repeal the paragraph, substitute:

- (b) either:
 - (i) takes advantage of that power with the effect, or likely effect, of substantially lessening competition in that or any other telecommunications market; or
 - (ii) takes advantage of that power, and engages in other conduct on one or more occasions, with the combined
-

effect, or likely combined effect, of substantially lessening competition in that or any other telecommunications market.

14 Before section 151AL

Insert:

151AKA Part A competition notices

Particular anti-competitive conduct

- (1) The Commission may issue a written notice stating that a specified carrier or carriage service provider has engaged, or is engaging, in a specified instance of anti-competitive conduct.

Kind of anti-competitive conduct

- (2) The Commission may issue a written notice stating that a specified carrier or carriage service provider has engaged, or is engaging, in at least one instance of anti-competitive conduct of a kind described in the notice.

Part A competition notice

- (3) A notice under subsection (1) or (2) is to be known as a **Part A competition notice**.

Part A competition notices under subsection (2)

- (4) For the purposes of this Part, a kind of anti-competitive conduct described in a Part A competition notice under subsection (2) is taken to be conduct of a kind dealt with in the notice.
- (5) To avoid doubt, a Part A competition notice under subsection (2) is not required to specify any instance of anti-competitive conduct.
- (6) In deciding how to describe a kind of anti-competitive conduct in a Part A competition notice under subsection (2), the Commission may have regard to:
 - (a) whether the carrier or carriage service provider concerned could, by varying its conduct, continue to engage in

anti-competitive conduct and avoid proceedings against it under one or more provisions of Division 7; and

(b) any other matters that the Commission thinks are relevant.

Threshold for issuing Part A competition notices

- (7) The Commission may issue a Part A competition notice under subsection (1) that specifies an instance of anti-competitive conduct if the Commission has reason to believe that the carrier or carriage service provider concerned has engaged, or is engaging, in that instance of anti-competitive conduct.
- (8) The Commission may issue a Part A competition notice under subsection (2) that describes a kind of anti-competitive conduct if the Commission has reason to believe that the carrier or carriage service provider concerned has engaged, or is engaging, in at least one instance of anti-competitive conduct of that kind.

Note: For the effect of a Part A competition notice, see subsections 151BY(3), 151CB(3), 151CC(3) and 151CE(5).

15 Subsection 151AL(2)

Omit “*competition notice*”, substitute “*Part B competition notice*”.

Note: The heading to section 151AL is altered by omitting “**Competition**” and substituting “**Part B competition**”.

16 At the end of section 151AL

Add:

Threshold for issuing Part B competition notices

- (3) The Commission may issue a Part B competition notice relating to a particular contravention if the Commission has reason to believe that the carrier or carriage service provider concerned has committed, or is committing, the contravention.

Notice may be issued after proceedings have been instituted

- (4) To avoid doubt, a Part B competition notice may be issued even if any relevant proceedings under Division 7 have been instituted.

Note: For the effect of a Part B competition notice, see subsection 151AN(1).

17 Subsection 151AN(1)

Before “competition notice”, insert “Part B”.

18 Section 151AO

Before “competition notice” (wherever occurring), insert “Part A”.

Note: The heading to section 151AO is altered by omitting “**competition**” and substituting “**Part A competition**”.

19 Subsection 151AO(2)

Omit “151AL”, substitute “151AKA”.

20 After section 151AO

Insert:

151AOA Variation of competition notice

- (1) If a competition notice is in force in relation to a carrier or carriage service provider, the Commission may vary the competition notice so long as the variation is of a minor nature.
- (2) If a Part A competition notice is in force in relation to a carrier or carriage service provider, the Commission may vary the competition notice by omitting the time at which the notice is expressed to come into force and substituting a later time.
- (3) If a competition notice is varied, the Commission must give the carrier or carriage service provider concerned a written notice setting out the terms of the variation.

151AOB Revocation of competition notice

- (1) The Commission may revoke a competition notice.
- (2) If a competition notice is revoked, the Commission must give the carrier or carriage service provider concerned a written notice stating that the notice has been revoked.

21 After section 151AQ

Insert:

151AQA Stay of proceedings relating to competition notices

- (1) Paragraphs 15(1)(a) and (b) of the *Administrative Decisions (Judicial Review) Act 1977* do not apply to a decision to issue a competition notice.
- (2) If a person applies to the Federal Court under subsection 39B(1) of the *Judiciary Act 1903* for a writ or injunction in relation to a decision to issue a competition notice, the Court must not make any orders staying or otherwise affecting the operation or implementation of the decision pending the finalisation of the application. However, this subsection does not apply to an order under subsection (3).
- (3) If:
 - (a) either:
 - (i) a person applies to the Federal Court under the *Administrative Decisions (Judicial Review) Act 1977* for review of a decision to issue a competition notice; or
 - (ii) a person applies to the Federal Court under subsection 39B(1) of the *Judiciary Act 1903* for a writ or injunction in relation to a decision to issue a competition notice; and
 - (b) any relevant proceedings have been instituted under Division 7 of this Part;the Federal Court or a Judge of the Federal Court may, by order, on such conditions as the Court or the Judge thinks fit, stay those proceedings.

151AQB Advisory notices

- (1) This section applies if a Part A competition notice is in force in relation to a carrier or carriage service provider.
- (2) The Commission may give the carrier or carriage service provider a written notice advising the carrier or carriage service provider of the action it should take, or consider taking, in order to ensure that it does not engage, or continue to engage, in the kind of conduct dealt with in the Part A competition notice.

- (3) A notice under subsection (2) is an instrument of an advisory character.
- (4) A notice under subsection (2) that relates to a Part A competition notice ceases to be in force if the Part A competition notice ceases to be in force.
- (5) The Commission may vary or revoke a notice under subsection (2).
- (6) If a notice under subsection (2) is varied, the Commission must give the carrier or carriage service provider concerned a written notice setting out the terms of the variation.
- (7) If a notice under subsection (2) is revoked, the Commission must give the carrier or carriage service provider concerned a written notice stating that the notice under subsection (2) has been revoked.

22 Division 6 of Part XIB (heading)

Repeal the heading, substitute:

Division 6—Record-keeping rules and disclosure directions

23 Subsection 151BU(1)

After “retain records.”, insert “Rules under this subsection may also require those carriers or carriage service providers to prepare reports consisting of information contained in those records. Rules under this subsection may also require those carriers or carriage service providers to give any or all of the reports to the Commission.”.

24 After subsection 151BU(2)

Insert:

- (2A) The rules may specify the manner and form in which reports are to be prepared.
 - (2B) The rules may provide for:
 - (a) the preparation of reports as and when required by the Commission; or
 - (b) the preparation of periodic reports relating to such regular intervals as are specified in the rules.
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(2C) The rules may require or permit a report prepared in accordance with the rules to be given to the Commission, in accordance with specified software requirements and specified authentication requirements:

- (a) on a specified kind of data processing device; or
- (b) by way of a specified kind of electronic transmission.

(2D) Subsections (2), (2A), (2B) and (2C) do not limit subsection (1).

25 Paragraphs 151BU(4)(c), (d), (e) and (f)

Omit “the performance by the Commission of a function, or the exercise by the Commission of a power, conferred on the Commission by or under”, substitute “the operation of”.

26 Subsection 151BU(4) (note)

Repeal the note.

27 At the end of section 151BU

Add:

- (6) This section does not limit section 155 (which is about the general information-gathering powers of the Commission).

28 After section 151BU

Insert:

151BUA Commission gives access to reports

- (1) This section applies to a particular report given to the Commission by a carrier, or a carriage service provider, in accordance with the record-keeping rules.

Criteria for disclosure

- (2) If the Commission is satisfied that the disclosure of the report, or the disclosure of particular extracts from the report, would be likely to:
 - (a) promote competition in markets for listed carriage services;
 - or

- (b) facilitate the operation of:
 - (i) this Part (other than this Division); or
 - (ii) Part XIC (which deals with access); or
 - (iii) Division 3 of Part 20 of the *Telecommunications Act 1997* (which deals with Rules of Conduct relating to dealings with international telecommunications operators); or
 - (iv) Part 6 of the *Telstra Corporation Act 1991* (which deals with regulation of Telstra's charges);

the Commission may give the carrier or carriage service provider concerned:

- (c) a written notice stating that the Commission intends to make copies of the report or extracts, together with other relevant material (if any) specified in the notice, available for inspection and purchase by the public as soon as practicable after the end of the period specified in the notice; or
- (d) a written notice stating that the Commission intends to make copies of the report or extracts, together with other relevant material (if any) specified in the notice, available for inspection and purchase:
 - (i) by such persons as are specified in the notice; and
 - (ii) on such terms and conditions (if any) as are specified in the notice;

as soon as practicable after the end of the period specified in the notice.

Note: For specification by class, see subsection 46(2) of the *Acts Interpretation Act 1901*.

Period specified in notice

- (3) The period specified in a notice under subsection (2) must run for at least 28 days after the notice was given.

Criteria for giving notice

- (4) In deciding whether to give a notice under subsection (2), the Commission must have regard to:
 - (a) the legitimate commercial interests of the carrier or carriage service provider concerned; and

- (b) such other matters as the Commission considers relevant.

Consultation before giving notice

- (5) The Commission must not give the carrier or carriage service provider concerned a notice under subsection (2) unless the Commission has first:
 - (a) given the carrier or carriage service provider a written notice:
 - (i) setting out a draft version of the notice under subsection (2); and
 - (ii) inviting the carrier or carriage service provider to make a submission to the Commission on the draft by a specified time limit; and
 - (b) considered any submission that was received within that time limit.

The time limit specified in a notice under paragraph (a) must be at least 28 days after the notice was given.

Public access

- (6) If the Commission gives the carrier or carriage service provider concerned a notice under paragraph (2)(c), the Commission:
 - (a) must make copies of the report or extracts, together with the other material (if any) specified in the notice, available for inspection and purchase by the public as soon as practicable after the end of the period specified in the notice; and
 - (b) may also give a written direction to the carrier or carriage service provider concerned requiring it to take such action as is specified in the direction to inform the public, or such persons as are specified in the direction, that the report is, or the extracts are, so available.

Note: For specification by class, see subsection 46(2) of the *Acts Interpretation Act 1901*.

- (7) A person must comply with a direction under paragraph (6)(b).

Limited access

- (8) If the Commission gives the carrier or carriage service provider concerned a notice under paragraph (2)(d), the Commission must:
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- (a) make copies of the report or extracts, together with the other material (if any) specified in the notice, available for inspection and purchase by the persons specified in the notice as soon as practicable after the end of the period specified in the notice; and
 - (b) take reasonable steps to inform the persons who inspect or purchase copies of the report or extracts of the terms and conditions (if any) that are specified in the notice.
- (9) If, in accordance with subsection (8), a person inspects or purchases a copy of the report or extracts, the person must comply with the terms and conditions (if any) that are specified in the notice concerned.

Offences

- (10) A person who intentionally or recklessly contravenes subsection (7) is guilty of an offence punishable on conviction by a fine not exceeding 20 penalty units.
- (11) A person who intentionally or recklessly contravenes subsection (9) is guilty of an offence punishable on conviction by a fine not exceeding 100 penalty units.

151BUB Carrier or carriage service provider gives access to reports

- (1) This section applies to a report prepared by a carrier, or a carriage service provider, in accordance with the record-keeping rules.

Disclosure direction

- (2) If the Commission is satisfied that the disclosure of the report, or the disclosure of particular extracts from the report, would be likely to:
- (a) promote competition in markets for listed carriage services;
or
 - (b) facilitate the operation of:
 - (i) this Part (other than this Division); or
 - (ii) Part XIC (which deals with access); or
 - (iii) Division 3 of Part 20 of the *Telecommunications Act 1997* (which deals with Rules of Conduct relating to

dealings with international telecommunications operators); or

- (iv) Part 6 of the *Telstra Corporation Act 1991* (which deals with regulation of Telstra's charges);

the Commission may give the carrier or carriage service provider concerned:

- (c) a written direction requiring it to make copies of the report or extracts, together with other relevant material (if any) specified in the direction, available for inspection and purchase by the public as soon as practicable after the end of the period specified in the direction; or
- (d) a written direction requiring it to make copies of the report or extracts, together with other relevant material (if any) specified in the direction, available for inspection and purchase:
- (i) by such persons as are specified in the direction; and
- (ii) on such terms and conditions (if any) as are specified in the direction;
- as soon as practicable after the end of the period specified in the direction.

Note: For specification by class, see subsection 46(2) of the *Acts Interpretation Act 1901*.

- (3) The period specified in a direction under subsection (2) must run for at least 28 days after the direction was given.
- (4) A direction under paragraph (2)(d) is also taken to require the carrier or carriage service provider concerned to take reasonable steps to inform the persons who inspect or purchase copies of the report or extracts of the terms and conditions (if any) that are specified in the direction.

Criteria for giving direction

- (5) In deciding whether to give a direction under subsection (2), the Commission must have regard to:
- (a) the legitimate commercial interests of the carrier or carriage service provider concerned; and
- (b) such other matters as the Commission considers relevant.

Consultation before giving direction

- (6) The Commission must not give the carrier or carriage service provider concerned a direction under subsection (2) unless the Commission has first:
- (a) given the carrier or carriage service provider a written notice:
 - (i) setting out a draft version of the direction; and
 - (ii) inviting the carrier or carriage service provider to make a submission to the Commission on the draft by a specified time limit; and
 - (b) considered any submission that was received within that time limit.

The time limit specified in the notice must be at least 28 days after the notice was given.

Direction to give information about availability of report

- (7) If the Commission gives the carrier or carriage service provider concerned a direction under paragraph (2)(c), the Commission may also give it a written direction requiring it to take such action as is specified in the direction to inform the public that the report is, or extracts are, available for inspection and purchase.
- (8) If the Commission gives the carrier or carriage service provider concerned a direction under paragraph (2)(d), the Commission may also give it a written direction requiring it to take such action as is specified in the direction to inform the persons specified in the paragraph (2)(d) direction that the report is, or the extracts are, available for inspection and purchase.
- (9) A person must comply with a direction under subsection (7) or (8).

Reasonable charge

- (10) The price charged by the carrier or carriage service provider concerned for the purchase of a copy of the report or extracts and the other material (if any) must not exceed the reasonable costs incurred by the carrier or carriage service provider concerned in making the copy of the report or extracts and the other material (if any) available for purchase.

Compliance with terms and conditions

- (11) If, in accordance with a direction under paragraph (2)(d), a person inspects or purchases a copy of the report or extracts, the person must comply with the terms and conditions (if any) that are specified in the direction.

Offences

- (12) A person who intentionally or recklessly contravenes subsection (9) is guilty of an offence punishable on conviction by a fine not exceeding 20 penalty units.
- (13) A person who intentionally or recklessly contravenes subsection (11) is guilty of an offence punishable on conviction by a fine not exceeding 100 penalty units.

Section 151BUC does not limit this section

- (14) Section 151BUC does not limit this section.

151BUC Carrier or carriage service provider gives access to periodic reports

- (1) This section applies to a particular series of periodic reports that are required to be prepared by a carrier, or a carriage service provider, in accordance with the record-keeping rules.

Disclosure direction

- (2) If the Commission is satisfied that the disclosure of each of the reports in that series, or the disclosure of particular extracts from each of the reports in that series, would be likely to:
- (a) promote competition in markets for listed carriage services;
or
 - (b) facilitate the operation of:
 - (i) this Part (other than this Division); or
 - (ii) Part XIC (which deals with access); or
 - (iii) Division 3 of Part 20 of the *Telecommunications Act 1997* (which deals with Rules of Conduct relating to

dealings with international telecommunications operators); or

- (iv) Part 6 of the *Telstra Corporation Act 1991* (which deals with regulation of Telstra's charges);

the Commission may give the carrier or carriage service provider concerned:

- (c) a written direction requiring it to make copies of each of those reports or extracts, together with other relevant material (if any) specified in the direction, available for inspection and purchase by the public by such times as are ascertained in accordance with the direction; or
- (d) a written direction requiring it to make copies of each of those reports or extracts, together with other relevant material (if any) specified in the direction, available for inspection and purchase:
- (i) by such persons as are specified in the direction; and
- (ii) on such terms and conditions (if any) as are specified in the direction;

by such times as are ascertained in accordance with the direction.

Note 1: For example, a direction under paragraph (2)(c) could require that each report in a particular series of quarterly reports be made available by the 28th day after the end of the quarter to which the report relates.

Note 2: For specification by class, see subsection 46(2) of the *Acts Interpretation Act 1901*.

- (3) In the case of the first report in the series (or extracts from that report), the applicable time ascertained in accordance with a direction under subsection (2) must be later than the 28th day after the day on which the direction was given.
- (4) A direction under paragraph (2)(d) is also taken to require the carrier or carriage service provider concerned to take reasonable steps to inform the persons who inspect or purchase copies of the report or extracts of the terms and conditions (if any) that are specified in the direction.

Criteria for giving direction

- (5) In deciding whether to give a direction under subsection (2), the Commission must have regard to:
- (a) the legitimate commercial interests of the carrier or carriage service provider concerned; and
 - (b) such other matters as the Commission considers relevant.

Consultation before giving direction

- (6) The Commission must not give the carrier or carriage service provider concerned a direction under subsection (2) unless the Commission has first:
- (a) given the carrier or carriage service provider a written notice:
 - (i) setting out a draft version of the direction; and
 - (ii) inviting the carrier or carriage service provider to make a submission to the Commission on the draft by a specified time limit; and
 - (b) considered any submission that was received within that time limit.

The time limit specified in the notice must be at least 28 days after the notice was given.

Direction to give information about availability of reports

- (7) If the Commission gives the carrier or carriage service provider concerned a direction under paragraph (2)(c), the Commission may also give it a written direction requiring it to take such action as is specified in the direction to inform the public that each of those reports is, or extracts are, available for inspection and purchase.
- (8) If the Commission gives the carrier or carriage service provider concerned a direction under paragraph (2)(d), the Commission may also give it a written direction requiring it to take such action as is specified in the direction to inform the persons specified in the paragraph (2)(d) direction that each of those reports is, or the extracts are, available for inspection and purchase.
- (9) A person must comply with a direction under subsection (7) or (8).

Reasonable charge

- (10) The price charged by the carrier or carriage service provider concerned for the purchase of a copy of the report or extracts and the other material (if any) must not exceed the reasonable costs incurred by the carrier or carriage service provider concerned in making the copy of the report or extracts and the other material (if any) available for purchase.

Compliance with terms and conditions

- (11) If, in accordance with a direction under paragraph (2)(d), a person inspects or purchases a copy of the report or extracts, the person must comply with the terms and conditions (if any) that are specified in the direction.

Offences

- (12) A person who intentionally or recklessly contravenes subsection (9) is guilty of an offence punishable on conviction by a fine not exceeding 20 penalty units.
- (13) A person who intentionally or recklessly contravenes subsection (11) is guilty of an offence punishable on conviction by a fine not exceeding 100 penalty units.

151BUD Exemption of reports from access requirements

Full exemption

- (1) The Commission may make a written determination exempting specified reports from the scope of sections 151BUA, 151BUB and 151BUC, either:
- (a) unconditionally; or
 - (b) subject to such conditions (if any) as are specified in the determination.

The determination has effect accordingly.

Note: For specification by class, see subsection 46(2) of the *Acts Interpretation Act 1901*.

- (2) If all of the information contained in a report (the *first report*) is, or is to be, set out in a report under Division 12A, the first report is exempt from the scope of sections 151BUA, 151BUB and 151BUC.

Partial exemption

- (3) The Commission may make a written determination that specified information is *exempt information* for the purposes of this section, either:
- (a) unconditionally; or
 - (b) subject to such conditions (if any) as are specified in the determination.

The determination has effect accordingly.

Note: For specification by class, see subsection 46(2) of the *Acts Interpretation Act 1901*.

- (4) If some, but not all, of the information contained in a report is, or is to be, set out in a report under Division 12A, so much of the information as is, or is to be, set out in the Division 12A report is *exempt information* for the purposes of this section.
- (5) If a report contains exempt information, sections 151BUA, 151BUB and 151BUC apply as if:
- (a) the exempt information were not part of the report; and
 - (b) so much of the report as does not consist of the exempt information were a report in its own right.

Disallowable instrument

- (6) A determination under this section is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

151BUE Access via the Internet

If the Commission, a carrier or a carriage service provider is required under this Division to make copies of a report, extracts or other material available for inspection and purchase, the Commission, carrier or carriage service provider, as the case may be, may comply with that requirement by making the report,

extracts or other material available for inspection and purchase on the Internet.

151BUF Self-incrimination

- (1) An individual is not excused from giving a report under the record-keeping rules, or from making a report or extracts available under this Division, on the ground that the report or extracts might tend to incriminate the individual or expose the individual to a penalty.
- (2) However:
 - (a) giving the report or making the report or extracts available; or
 - (b) any information, document or thing obtained as a direct or indirect consequence of giving the report or making the report or extracts available;is not admissible in evidence against the individual in:
 - (c) criminal proceedings other than proceedings under, or arising out of, section 151BV; or
 - (d) proceedings under section 151BY for recovery of a pecuniary penalty in relation to a contravention of a disclosure direction.

29 Division 7 of Part XIB (heading)

Repeal the heading, substitute:

Division 7—Enforcement of the competition rule, tariff filing directions, record-keeping rules and disclosure directions

30 Section 151BW

Omit “or a record-keeping rule”, substitute “, a record-keeping rule or a disclosure direction”.

Note: The heading to section 151BW is altered by omitting “**or a record-keeping rule**” and substituting “, **a record-keeping rule or a disclosure direction**”.

31 Subsection 151BX(1)

Omit “or a record-keeping rule” (wherever occurring), substitute “, a record-keeping rule or a disclosure direction”.

Note: The heading to section 151BX is altered by omitting “**or a record-keeping rule**” and substituting “, **a record-keeping rule or a disclosure direction**”.

32 Paragraph 151BX(3)(c)

After “rule”, insert “or of a disclosure direction”.

33 Paragraph 151BX(4)(a)

After “rule”, insert “or of a disclosure direction”.

34 At the end of paragraph 151BX(5)(b)

Add “or”.

35 After paragraph 151BX(5)(b)

Insert:

(c) 2 or more disclosure directions;

36 Subsection 151BX(5)

Omit “or record-keeping rules”, substitute “, record-keeping rules or disclosure directions”.

37 Subsection 151BY(3)

Omit “competition notice that was in force” (wherever occurring), substitute “Part A competition notice that was in force in relation to the carrier or carriage service provider concerned”.

38 Subsection 151BZ(1)

Omit “or a record-keeping rule” (wherever occurring), substitute “, a record-keeping rule or a disclosure direction”.

Note: The heading to section 151BZ is altered by omitting “**or record-keeping rules**” and substituting “, **record-keeping rules or disclosure directions**”.

39 Subsection 151CA(1)

Omit “or a record-keeping rule” (wherever occurring), substitute “, a record-keeping rule or a disclosure direction”.

40 Subsection 151CA(8)

Repeal the subsection.

41 Subsection 151CB(3)

Omit “competition notice that was in force”, substitute “Part A competition notice that was in force in relation to the carrier or carriage service provider concerned”.

42 Subsection 151CC(3)

Omit “competition notice that was in force”, substitute “Part A competition notice that was in force in relation to the carrier or carriage service provider concerned”.

43 Subsection 151CE(5)

Omit “competition notice that was in force”, substitute “Part A competition notice that was in force in relation to the carrier or carriage service provider concerned”.

44 After subsection 151CI(3)

Insert:

(3A) If the Commission:

- (a) makes a decision under section 151BUA to make a report obtained from a person, or an extract from such a report, available for inspection and purchase; or
- (b) makes a decision under section 151BUB or 151BUC to give a person a written direction to make a report or extract available for inspection and purchase;

the person may apply to the Tribunal for a review of the decision.

45 At the end of subsection 151CI(4)

Add:

; and (d) in the case of an application under subsection (3A)—made within 28 days after the Commission made the decision.

46 Subsection 151CM(1)

Repeal the subsection, substitute:

- (1) The Commission must monitor, and report each financial year to the Minister on:

- (a) charges paid by consumers for the following goods and services:
 - (i) listed carriage services;
 - (ii) goods for use in connection with a listed carriage service;
 - (iii) services for use in connection with a listed carriage service; and
- (b) the adequacy of Telstra's compliance with Part 6 of the *Telstra Corporation Act 1991* (which deals with price control arrangements for Telstra); and
- (c) the adequacy of each universal service provider's compliance with Division 5 of Part 7 of the *Telecommunications Act 1997* (which deals with regulation of universal service charges).

47 After Division 12 of Part XIB

Insert:

Division 12A—Reports about competition in the telecommunications industry

151CMA Public reports about competition in the telecommunications industry

- (1) The Commission must monitor, and report to the Minister on, such matters relating to competition in the telecommunications industry as are specified in a written determination made by the Minister for the purposes of this subsection.

Note: For examples of matters that may be specified in a determination under subsection (1), see section 151CMC.

- (2) Reports under subsection (1) are to be given to the Minister in respect of such regular intervals as are specified in a written determination made by the Minister for the purposes of this subsection.
 - (3) Reports under subsection (1) must comply with such requirements in relation to the protection of confidential information as are specified in a written determination made by the Minister for the
-

purposes of this subsection. For this purpose, information is **confidential information** if, and only if, the publication of the information could reasonably be expected to prejudice substantially the commercial interests of a person.

- (4) The Commission must give a report under subsection (1) to the Minister as soon as practicable after the end of the regular interval to which the report relates.
- (5) The Minister must cause a copy of a report under subsection (1) to be laid before each House of the Parliament within 15 sitting days of that House after receiving the report.
- (6) A determination under this section is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.
- (7) In this section:

telecommunications industry has the same meaning as in the *Telecommunications Act 1997*.

151CMB Confidential reports about competition in the telecommunications industry

- (1) The Commission must monitor, and report to the Minister on, such matters relating to competition in the telecommunications industry as are specified in a written determination made by the Minister for the purposes of this subsection.

Note: For examples of matters that may be specified in a determination under subsection (1), see section 151CMC.
- (2) Reports under subsection (1) are to be given to the Minister in respect of such regular intervals as are specified in a written determination made by the Minister for the purposes of this subsection.
- (3) The Commission must give a report under subsection (1) to the Minister as soon as practicable after the end of the regular interval to which the report relates.
- (4) A determination under this section is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

(5) In this section:

telecommunications industry has the same meaning as in the *Telecommunications Act 1997*.

151CMC Examples of matters that may be specified in a determination under section 151CMA or 151CMB

The following are examples of matters that may be specified in a determination under subsection 151CMA(1) or 151CMB(1):

- (a) charges for:
 - (i) carriage services; or
 - (ii) goods for use in connection with a carriage service; or
 - (iii) services for use in connection with a carriage service;
- (b) carriers' and carriage service providers' respective shares of the total supply of:
 - (i) carriage services; or
 - (ii) goods for use in connection with a carriage service; or
 - (iii) services for use in connection with a carriage service;
- (c) carriers' and carriage service providers' revenues relating to their respective shares of the total supply of:
 - (i) carriage services; or
 - (ii) goods for use in connection with a carriage service; or
 - (iii) services for use in connection with a carriage service;
- (d) other indicators (whether quantitative or qualitative) relating to the supply of:
 - (i) carriage services; or
 - (ii) goods for use in connection with a carriage service; or
 - (iii) services for use in connection with a carriage service.

48 Section 152AC

Insert:

constitutional corporation means a corporation to which paragraph 51(xx) of the Constitution applies.

49 Paragraph 152AN(2)(d)

Repeal the paragraph, substitute:

- (d) the Commission must ensure that each inquiry is covered by a report under section 505 of that Act, whether the report relates:
 - (i) to a single one of those inquiries; or
 - (ii) to any 2 or more of those inquiries.

50 After section 152AY

Insert:

152AYA Ancillary obligations—confidential information

If:

- (a) a carrier or carriage service provider is required to comply with a standard access obligation that arose because of a request made by an access seeker; and
- (b) at or after the time when the request was made, the access seeker gives particular information to the carrier or carriage service provider to enable the carrier or carriage service provider to comply with the standard access obligation; and
- (c) at or before the time when the information was given, the access seeker gave the carrier or carriage service provider a written notice to the effect that:
 - (i) that information; or
 - (ii) a class of information that includes that information; is to be regarded as having been given on a confidential basis for the purpose of enabling the carrier or carriage service provider to comply with the standard access obligation;the carrier or carriage service provider must not, without the written consent of the access seeker, use that information for a purpose other than enabling the carrier or carriage service provider to comply with:
 - (d) the standard access obligation; or
 - (e) any other standard access obligation that arose because of a request made by the access seeker; or
 - (f) any other obligation imposed by a law.

51 Section 152AZ

Omit “comply with any standard access obligations that are applicable to the carrier.”, substitute:

comply with:

- (a) any standard access obligations that are applicable to the carrier; and
- (b) any obligations under section 152AYA that are applicable to the carrier.

52 Subsection 152BA(2)

Omit “comply with any standard access obligations that are applicable to the provider.”, substitute:

comply with:

- (a) any standard access obligations that are applicable to the provider; and
- (b) any obligations under section 152AYA that are applicable to the provider.

53 After subsection 152BB(1)

Insert:

- (1A) If the Federal Court is satisfied that a carrier or carriage service provider has contravened an obligation imposed by section 152AYA, the Court may, on the application of:
 - (a) the Commission; or
 - (b) the access seeker who gave the information concerned;make all or any of the following orders:
 - (c) an order directing the carrier or carriage service provider to comply with the obligation;
 - (d) an order directing the carrier or carriage service provider to compensate any other person who has suffered loss or damage as a result of the contravention;
 - (e) any other order that the Court thinks appropriate.

54 After section 152BB

Insert:

152BBA Commission may give directions in relation to negotiations

- (1) This section applies if a carrier or carriage service provider is required to comply with any or all of the standard access obligations.
- (2) If the following parties:
 - (a) the carrier or carriage service provider, as the case requires;
 - (b) the access seeker;propose to negotiate, or are negotiating, with a view to agreeing on terms and conditions as mentioned in paragraph 152AY(2)(a), the Commission may, for the purposes of facilitating those negotiations, if requested in writing to do so by either party, give a party a written procedural direction requiring the party to do, or refrain from doing, a specified act or thing relating to the conduct of those negotiations.
- (3) The following are examples of the kinds of procedural directions that may be given under subsection (2):
 - (a) a direction requiring a party to give relevant information to the other party;
 - (b) a direction requiring a party to carry out research or investigations in order to obtain relevant information;
 - (c) a direction requiring a party not to impose unreasonable procedural conditions on the party's participation in negotiations;
 - (d) a direction requiring a party to respond in writing to the other party's proposal or request in relation to the time and place of a meeting;
 - (e) a direction requiring a party, or a representative of a party, to attend a mediation conference;
 - (f) a direction requiring a party, or a representative of a party, to attend a conciliation conference.
- (4) For the purposes of paragraph (3)(c), if a party (the *first party*) imposes, as a condition on the first party's participation in negotiations, a requirement that the other party must not disclose to the Commission any or all information, or the contents of any or all documents, provided in the course of negotiations, that condition is

taken to be an unreasonable procedural condition on the first party's participation in those negotiations.

- (5) A person must not contravene a direction under subsection (2).
- (6) A person must not:
 - (a) aid, abet, counsel or procure a contravention of subsection (5); or
 - (b) induce, whether by threats or promises or otherwise, a contravention of subsection (5); or
 - (c) be in any way, directly or indirectly, knowingly concerned in, or party to, a contravention of subsection (5); or
 - (d) conspire with others to effect a contravention of subsection (5).
- (7) In deciding whether to give a direction under subsection (2), the Commission must have regard to:
 - (a) any guidelines in force under subsection (8); and
 - (b) such other matters as the Commission considers relevant.
- (8) The Commission may, by written instrument, formulate guidelines for the purposes of subsection (7).
- (9) In addition to its effect apart from this subsection, this section also has the effect it would have if:
 - (a) each reference to a carrier were, by express provision, confined to a carrier that is a constitutional corporation; and
 - (b) each reference to a carriage service provider were, by express provision, confined to a carriage service provider that is a constitutional corporation; and
 - (c) each reference to an access seeker were, by express provision, confined to an access seeker that is a constitutional corporation.

152BBB Enforcement of directions

- (1) If the Federal Court is satisfied that a person has contravened subsection 152BBA(5) or (6), the Court may order the person to pay to the Commonwealth such pecuniary penalty, in respect of each contravention, as the Court determines to be appropriate.

- (2) In determining the pecuniary penalty, the Court must have regard to all relevant matters, including:
 - (a) the nature and extent of the contravention; and
 - (b) the nature and extent of any loss or damage suffered as a result of the contravention; and
 - (c) the circumstances in which the contravention took place; and
 - (d) whether the person has previously been found by the Court in proceedings under this Act to have engaged in any similar conduct.
- (3) The pecuniary penalty payable under subsection (1) by a body corporate is not to exceed \$250,000 for each contravention.
- (4) The pecuniary penalty payable under subsection (1) by a person other than a body corporate is not to exceed \$50,000 for each contravention.
- (5) The Commission may institute a proceeding in the Federal Court for the recovery on behalf of the Commonwealth of a pecuniary penalty referred to in subsection (1).
- (6) A proceeding under subsection (5) may be commenced within 6 years after the contravention.
- (7) Criminal proceedings do not lie against a person only because the person has contravened subsection 152BBA(5) or (6).

152BBC Commission's role in negotiations

- (1) This section applies if a carrier or carriage service provider is required to comply with any or all of the standard access obligations.
- (2) If the following parties:
 - (a) the carrier or carriage service provider, as the case requires;
 - (b) the access seeker;propose to negotiate, or are negotiating, with a view to agreeing on terms and conditions as mentioned in paragraph 152AY(2)(a), the parties may jointly request the Commission in writing to arrange for a representative of the Commission to attend, or mediate at, those negotiations.

- (3) The Commission may comply with the request if the Commission considers that compliance with the request would be likely to facilitate those negotiations.
- (4) For the purposes of this section, each of the following persons may be a representative of the Commission:
 - (a) a member, or associate member, of the Commission; or
 - (b) a person referred to in subsection 27(1); or
 - (c) a person engaged under section 27A.
- (5) A member of the Commission is not disqualified from constituting the Commission (with other members) for the purposes of an arbitration under Division 8 of a dispute about a particular matter, merely because the member or another person attended, or mediated at, negotiations in relation to the matter in accordance with a request under this section.

55 Section 152CL

Insert:

final determination means a determination other than an interim determination.

56 Section 152CL

Insert:

interim determination means a determination that is expressed to be an interim determination.

57 Subsections 152CN(1) and (2)

Before “determination” (wherever occurring), insert “final”.

58 Subsection 152CN(3)

Repeal the subsection, substitute:

- (3) If the notification is withdrawn:
 - (a) the Commission must not make a final determination in relation to the access dispute; and
 - (b) if the Commission has not already made an interim determination in relation to the access dispute—the
-

Commission must not make an interim determination in relation to the access dispute.

59 After section 152CP

Insert:

152CPA Interim determination by Commission

- (1) A determination may be expressed to be an interim determination.
- (2) The making of an interim determination does not terminate an arbitration or relieve the Commission from its duty to make a final determination.

Objection by access seeker

- (3) The Commission must not make an interim determination if, at any time within the objection period, the access seeker gave the Commission a written notice objecting to the determination. For this purpose, the ***objection period*** is the period specified in a written notice issued by the Commission at the same time as a draft of the determination was issued by the Commission. The specified period must not be shorter than 7 business days after the draft of the determination was issued by the Commission.

Duration

- (4) An interim determination has effect on the date specified in the determination.
- (5) Unless sooner revoked, an interim determination remains in force until the end of the period specified in the determination. The period must not be longer than 12 months.

Revocation

- (6) The Commission may revoke an interim determination.
- (7) The Commission must revoke an interim determination if requested to do so by the parties to the determination.
- (8) If:

- (a) an interim determination relating to an access dispute is in force; and
- (b) the notification of the dispute is withdrawn under section 152CN;

the interim determination is taken to have been revoked when the withdrawal occurs.

(9) If:

- (a) an interim determination relating to an access dispute is in force; and
- (b) a final determination relating to the access dispute takes effect;

the interim determination is taken to have been revoked when the final determination takes effect.

Variation

- (10) The Commission may vary an interim determination.
- (11) Sections 152CQ and 152CR apply to a variation under subsection (10) as if:
 - (a) in a case where the interim determination was made in arbitration of an access dispute relating to an earlier final determination of an access dispute (the *eligible access dispute*) between the access seeker and the carrier or provider:
 - (i) an access dispute (the *notional access dispute*) arising out of the interim determination had been notified at the time when the eligible access dispute was notified; and
 - (ii) the notional access dispute were an access dispute relating to the earlier final determination; and
 - (iii) the variation were the making of an interim determination in the terms of the varied interim determination; or
 - (b) in any other case:
 - (i) an access dispute arising out of the interim determination had been notified at the time when the original access dispute was notified; and

- (ii) the variation were the making of an interim determination in the terms of the varied interim determination.

Definition

- (12) In this section:

business day means a day that is not a Saturday, a Sunday or a public holiday in the Australian Capital Territory.

60 Subsection 152CR(1)

After “making a”, insert “final”.

61 At the end of section 152CR

Add:

- (3) The Commission may take the following matters into account in making an interim determination:
 - (a) a matter referred to in a paragraph of subsection (1);
 - (b) any other matters that it thinks are relevant.
- (4) In making an interim determination, the Commission does not have a duty to consider whether to take into account a matter referred to in a paragraph of subsection (1).

62 Subsection 152CT(1)

Omit “If the Commission has reason to suspect that a person who is or was a party to the arbitration of an access dispute has not engaged, or is not engaging, in negotiations in good faith,”, substitute “If the Commission considers that it would be likely to facilitate negotiations relating to an access dispute if a person who is or was a party to the arbitration of the access dispute were to be given a direction under this subsection,”.

Note: The heading to section 152CT is altered by omitting “**direct a party to engage in negotiations in good faith**” and substituting “**give directions in relation to negotiations**”.

63 After subsection 152CT(2)

Insert:

- (2A) For the purposes of paragraph (2)(c), if a party (the *first party*) imposes, as a condition on the first party's participation in negotiations, a requirement that the other party must not disclose to the Commission any or all information, or the contents of any or all documents, provided in the course of negotiations, that condition is taken to be an unreasonable procedural condition on the first party's participation in those negotiations.

64 At the end of section 152CT

Add:

- (7) In addition to its effect apart from this subsection, subsection (1) also has the effect it would have if each reference to a person were, by express provision, confined to a person who is a constitutional corporation.

65 At the end of section 152CV

Add:

- (2) To avoid doubt, a member of the Commission is not disqualified from constituting the Commission (with other members) for the purposes of an arbitration of a dispute about a particular matter merely because the member has performed functions, or exercised powers, in relation to the matter or a related matter.
- (3) Subsection (2) has effect in addition to subsection 152BBC(5).
- (4) In determining the operation of a provision of this Act other than this Division or section 152BBC, subsection (2) of this section and subsection 152BBC(5) are to be disregarded.

66 Section 152DN

Repeal the section, substitute:

152DN Operation of determinations

- (1) A final determination has effect 21 days after the determination is made.

Stay of determination by the Tribunal

- (2) However, if a party to an arbitration applies to the Tribunal under section 152DO for a review of the Commission's final determination, the Tribunal may make any orders staying or otherwise affecting the operation or implementation of the final determination that the Tribunal thinks appropriate to secure the effectiveness of the review by the Tribunal.
- (3) If an order is in force under subsection (2) (including an order previously varied under this subsection), the Tribunal may make an order varying or revoking the first-mentioned order.
- (4) An order in force under subsection (2) (including an order previously varied under subsection (3)):
 - (a) is subject to any conditions that are specified in the order; and
 - (b) has effect until:
 - (i) the end of any period for the operation of the order that is specified in the order; or
 - (ii) the finalisation of the review;whichever is earlier.

Interim determination to remain in force if final determination stayed

- (5) If:
 - (a) an order is made under subsection (2) in connection with a final determination relating to an access dispute; and
 - (b) an interim determination relating to the access dispute was in force immediately before the final determination took effect;the interim determination remains in force until:
 - (c) the end of any period for the operation of the order that is specified in the order; or
 - (d) the finalisation of the review; or
 - (e) the revocation of the interim determination;whichever is earliest.

Commission may make interim determination while final determination stayed

- (6) If:
- (a) an order is made under subsection (2) in connection with a final determination relating to an access dispute; and
 - (b) no interim determination relating to the access dispute was in force immediately before the final determination took effect;
- this Part does not prevent the Commission from making an interim determination relating to the access dispute while the order is in force. Such an interim determination ceases to have effect:
- (c) at the end of any period for the operation of the order that is specified in the order; or
 - (d) on the finalisation of the review; or
 - (e) on the revocation of the interim determination;
- whichever is earliest.

Duration of interim determination

- (7) Subsections (5) and (6) have effect despite anything in section 152CPA.

When final determination takes effect

- (8) For the purposes of subsections (5) and (6), in determining the time when a final determination took effect, an order under subsection (2) is to be disregarded.

152DNA Backdating of final determinations

- (1) Any or all of the provisions of a final determination may be expressed to have taken effect on a specified date that is earlier than the date on which the determination took effect.
 - (2) The specified date must not be earlier than the date of notification of the access dispute concerned.
 - (3) For the purposes of subsections 152CPA(9) and 152DN(5) and (6), in determining the time when a final determination takes effect, a provision covered by subsection (1) of this section is to be disregarded.
-

- (4) A provision of a final determination may be expressed to cease to have effect on a specified date.
- (5) This section has effect despite anything in subsection 152DN(1).

152DNB Stay of determinations

- (1) Paragraphs 15(1)(a) and (b) of the *Administrative Decisions (Judicial Review) Act 1977* do not apply to a decision of the Commission to make a determination.
- (2) If a person applies to the Federal Court under subsection 39B(1) of the *Judiciary Act 1903* for a writ or injunction in relation to a decision of the Commission to make a determination, the Court must not make any orders staying or otherwise affecting the operation or implementation of the decision pending the finalisation of the application.

67 Subsection 152DO(1)

Omit “determination” (wherever occurring), substitute “final determination”.

68 At the end of subsection 152DO(4)

Add:

To avoid doubt, the Tribunal has power to make, vary or revoke an interim determination.

69 Section 152DT

Omit “determination” (wherever occurring), substitute “final determination”.

70 After subsection 152DU(1)

Insert:

- (1A) The revocation of a determination does not affect any remedy under subsection (1) in respect of a contravention of the determination that occurred when the determination was in force.

71 Subsection 155AB(3) (paragraph (a) of the definition of protected Part XIB or XIC information)

Repeal the paragraph, substitute:

- (a) was obtained by the Commission under:
 - (i) section 151AU, 152AU, 152BT, 152BZ or 155; or
 - (ii) rules in force under section 151BU; and

72 Transitional—section 151CM of the *Trade Practices Act 1974*

- (1) This item applies to a report under subsection 151CM(1) of the *Trade Practices Act 1974* for the financial year in which this item commenced.
- (2) To avoid doubt, that report must deal with matters covered by paragraphs 151CM(1)(b) and (c) of that Act in relation to the whole of that financial year.

73 Transitional—interim determinations

An interim determination may be made in relation to an arbitration under Division 8 of Part XIC of the *Trade Practices Act 1974*, whether the access dispute was notified before, at or after the commencement of this item.

74 Transitional—backdating of final determinations

A final determination made by the Commission under Division 8 of Part XIC of the *Trade Practices Act 1974* has no effect to the extent (if any) to which any provision of the determination is expressed to have taken effect on a date earlier than the date of commencement of this item.

75 Transitional—pre-commencement competition notices

- (1) Despite the amendments made by items 6, 8, 11, 12, 14, 15, 16, 17, 18, 19, 21, 37, 41, 42 and 43 of this Schedule, Part XIB of the *Trade Practices Act 1974* continues to apply, after the commencement of this item, in relation to a competition notice in force immediately before the commencement of this item, as if those amendments had not been made.
- (2) Subsection 151AOA(2) of the *Trade Practices Act 1974* applies to a competition notice in force immediately before the commencement of

this item in a corresponding way to the way in which it applies to a Part A competition notice.

76 Transitional—section 152CT of the *Trade Practices Act 1974*

The amendments of section 152CT of the *Trade Practices Act 1974* made by this Schedule do not affect the continuity of a direction in force under that section immediately before the commencement of this item.

77 Transitional—interpretation of pre-commencement provisions of the *Trade Practices Act 1974*

In determining the meaning that a provision of the *Trade Practices Act 1974* had before the commencement of this item, the amendments made by this Schedule are to be disregarded.

Schedule 2—Amendments commencing not earlier than 1 January 1999

Telecommunications Act 1997

1 Subsections 480(5), (6) and (7)

Repeal the subsections.

2 After section 480

Insert:

480A Other information to be publicly available

- (1) For the purposes of this section, if a standard form of agreement formulated by a carriage service provider for the purposes of section 479 sets out terms and conditions that are applicable to the supply of goods or services to a person:
 - (a) the person is an *ordinary customer* of the carriage service provider; and
 - (b) the goods or services are *designated goods or services*.
- (2) The ACA may make a written determination requiring carriage service providers to:
 - (a) give ordinary customers specified information relating to the supply of designated goods or services; or
 - (b) give specified kinds of ordinary customers specified information about the supply of designated goods or services; or
 - (c) publish information relating to the supply of designated goods or services.
- (3) A determination under subsection (2) may specify the manner and form in which information is to be given or published.
- (4) A determination under subsection (2) may make provision for customers to be informed (whether by individual notice or general publication) of, or of a summary of, any or all of their rights as

customers, including their rights under Part 5 of the *Telecommunications (Consumer Protection and Service Standards) Act 1999* (which deals with the customer service guarantee).

- (5) Subsections (3) and (4) do not limit subsection (2).
- (6) Before making a determination under subsection (2), the ACA must consult the Telecommunications Industry Ombudsman.
- (7) A carriage service provider must comply with a determination under subsection (2).
- (8) The ACA must ensure that a determination is in force under subsection (2) at all times after the commencement of this section.
- (9) A determination under subsection (2) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

**Schedule 3—Amendments commencing on
the commencement of section 1 of the
Telecommunications (Consumer
Protection and Service Standards) Act
1999**

Part 1—Amendments

Australian Communications Authority Act 1997

1 At the end of paragraph 6(a)

Add “and the *Telecommunications (Consumer Protection and Service Standards) Act 1999*”.

2 After subparagraph 6(j)(i)

Insert:

(ia) the *Telecommunications (Consumer Protection and Service Standards) Act 1999*; or

3 After paragraph 8(3)(a)

Insert:

(aa) the *Telecommunications (Consumer Protection and Service Standards) Act 1999*;

4 After subparagraph 53(1)(b)(ii)

Insert:

(iia) the *Telecommunications (Consumer Protection and Service Standards) Act 1999*; or

5 Subparagraph 53(1)(b)(iv)

After “(ii)”, insert “, (iia)”.

Australian Postal Corporation Act 1989

6 Section 11

Omit “and the *Telecommunications Act 1997*”, substitute “, the
Telecommunications Act 1997 and the *Telecommunications (Consumer
Protection and Service Standards) Act 1999*”.

Note: The heading to section 11 is altered by adding at the end “etc.”.

Legislative Instruments Act 1999

7 Schedule 2 (before the table row relating to the *Telecommunications (Interception) Act 1979*)

Insert:

Telecommunications (Consumer Protection and Service Standards) Act 1999

Sea Installations Act 1987

8 Schedule (after the reference to the *Telecommunications Act 1997*)

Insert:

Telecommunications (Consumer Protection and Service Standards) Act 1999

Telecommunications Act 1997

9 Section 5

Omit:

- | |
|--|
| <ul style="list-style-type: none">• Certain local calls are to be charged for on an untimed basis.• The ACA may make performance standards to be complied with by carriage service providers in relation to customer service.• Certain carriers and carriage service providers must enter into the Telecommunications Industry Ombudsman scheme. |
|--|

-
- | |
|---|
| <ul style="list-style-type: none">• Provision is made for the protection of residential customers of carriage service providers against failure by the providers to supply standard telephone services.• The ACA may impose requirements on carriers, carriage service providers and certain other persons in relation to emergency call services. |
|---|

10 Section 6 (table items 7, 10, 20, 27 and 33)

Repeal the items.

11 Section 7 (after paragraph (a) of the definition of ACA's telecommunications powers)

Insert:

- (aa) the *Telecommunications (Consumer Protection and Service Standards) Act 1999*; or

12 Section 7 (paragraph (b) of the definition of ACCC's telecommunications functions and powers)

Repeal the paragraph, substitute:

- (b) the *Telecommunications (Consumer Protection and Service Standards) Act 1999*; or

13 Section 7 (paragraphs (k) and (l) of the definition of civil penalty provision)

Repeal the paragraphs, substitute:

- (k) subsection 148(1) of the *Telecommunications (Consumer Protection and Service Standards) Act 1999*; or
(l) subsection 148(3) of the *Telecommunications (Consumer Protection and Service Standards) Act 1999*; or
(m) subsection 158B(1) of the *Telecommunications (Consumer Protection and Service Standards) Act 1999*; or
(n) subsection 158B(4) of the *Telecommunications (Consumer Protection and Service Standards) Act 1999*; or
(o) subsection 158C(1) of the *Telecommunications (Consumer Protection and Service Standards) Act 1999*; or

- (p) subsection 158D(3) of the *Telecommunications (Consumer Protection and Service Standards) Act 1999*; or
- (q) subsection 158E(1) of the *Telecommunications (Consumer Protection and Service Standards) Act 1999*.

14 Section 7 (definition of *standard telephone service*)

Omit “section 17”, substitute “section 6 of the *Telecommunications (Consumer Protection and Service Standards) Act 1999*”.

15 Section 7 (definition of *Telecommunications Industry Ombudsman*)

Repeal the definition, substitute:

Telecommunications Industry Ombudsman has the same meaning as in the *Telecommunications (Consumer Protection and Service Standards) Act 1999*.

16 Section 7 (definition of *Telecommunications Industry Ombudsman scheme*)

Repeal the definition, substitute:

Telecommunications Industry Ombudsman scheme has the same meaning as in the *Telecommunications (Consumer Protection and Service Standards) Act 1999*.

17 Section 17

Repeal the section.

18 At the end of section 57

Add:

- (2) In this section:

this Act includes the *Telecommunications (Consumer Protection and Service Standards) Act 1999* and regulations under that Act.

19 At the end of section 67

Add:

(3) In this section:

this Act includes the *Telecommunications (Consumer Protection and Service Standards) Act 1999* and regulations under that Act.

20 At the end of section 78

Add:

(2) In this section:

this Act includes the *Telecommunications (Consumer Protection and Service Standards) Act 1999* and regulations under that Act.

21 At the end of section 81

Add:

(5) In this section:

this Act includes the *Telecommunications (Consumer Protection and Service Standards) Act 1999* and regulations under that Act.

22 At the end of section 81A

Add:

(3) In this section:

this Act includes the *Telecommunications (Consumer Protection and Service Standards) Act 1999* and regulations under that Act.

23 At the end of section 83

Add:

(8) In this section:

this Act includes the *Telecommunications (Consumer Protection and Service Standards) Act 1999* and regulations under that Act.

24 Subsection 105(4)

Omit “Part 9”, substitute “Part 5 of the *Telecommunications (Consumer Protection and Service Standards) Act 1999*”.

25 Parts 8, 9, 10, 11 and 12

Repeal the Parts.

26 Subsection 362(3)

Insert:

this Act includes the *Telecommunications (Consumer Protection and Service Standards) Act 1999* and regulations under that Act.

27 At the end of section 395

Add:

(2) In this section:

this Act includes the *Telecommunications (Consumer Protection and Service Standards) Act 1999* and regulations under that Act.

28 At the end of section 430

Add:

(2) In this section:

this Act includes the *Telecommunications (Consumer Protection and Service Standards) Act 1999* and regulations under that Act.

29 Paragraph 455(10)(a)

Omit “Part 8”, substitute “Part 4 of the *Telecommunications (Consumer Protection and Service Standards) Act 1999*”.

30 At the end of section 492

Add:

(5) In this section:

this Act includes the *Telecommunications (Consumer Protection and Service Standards) Act 1999* and regulations under that Act.

31 At the end of section 502

Add:

(5) In this section:

this Act includes the *Telecommunications (Consumer Protection and Service Standards) Act 1999* and regulations under that Act.

32 After paragraph 508(a)

Insert:

(aa) a contravention of the *Telecommunications (Consumer Protection and Service Standards) Act 1999* or regulations under that Act;

33 Paragraph 508(c)

Omit “Part 9”, substitute “Part 5 of the *Telecommunications (Consumer Protection and Service Standards) Act 1999*”.

34 After paragraph 510(1)(a)

Insert:

(aa) in the case of a matter covered by paragraph 508(aa)—the ACA has reason to suspect that a person may have contravened the *Telecommunications (Consumer Protection and Service Standards) Act 1999* or regulations under that Act; or

35 At the end of section 546

Add:

(3) In this section:

this Act includes the *Telecommunications (Consumer Protection and Service Standards) Act 1999* and regulations under that Act.

36 At the end of section 551

Add:

(3) In this section:

this Act includes the *Telecommunications (Consumer Protection and Service Standards) Act 1999* and regulations under that Act.

37 At the end of section 553

Add:

(3) In this section:

this Act includes the *Telecommunications (Consumer Protection and Service Standards) Act 1999* and regulations under that Act.

38 Section 563

After “this Act”, insert “, of the *Telecommunications (Consumer Protection and Service Standards) Act 1999* or of regulations under that Act”.

39 At the end of section 564

Add:

(4) In this section:

this Act includes the *Telecommunications (Consumer Protection and Service Standards) Act 1999* and regulations under that Act.

40 At the end of section 570

Add:

(7) In this section:

this Act includes the *Telecommunications (Consumer Protection and Service Standards) Act 1999* and regulations under that Act.

41 After section 574

Insert:

574A Definition

In this Part:

this Act includes the *Telecommunications (Consumer Protection and Service Standards) Act 1999* and regulations under that Act.

42 Section 577

After “this Act”, insert “, of the *Telecommunications (Consumer Protection and Service Standards) Act 1999* or of regulations under that Act”.

43 Subsection 578(2)

Insert:

this Act includes the *Telecommunications (Consumer Protection and Service Standards) Act 1999* and regulations under that Act.

44 Section 582

After “Act” (first occurring), insert “, the *Telecommunications (Consumer Protection and Service Standards) Act 1999* and regulations under that Act”.

45 Section 582

After “Act” (second and third occurring), insert “or the *Telecommunications (Consumer Protection and Service Standards) Act 1999*”.

46 Section 582

After “Act” (fourth occurring), insert “, the *Telecommunications (Consumer Protection and Service Standards) Act 1999* or regulations under that Act”.

47 Section 582

Omit “Act does not”, substitute “Act, the *Telecommunications (Consumer Protection and Service Standards) Act 1999* and regulations under that Act do not”.

48 At the end of section 583

Add:

(3) In this section:

this Act includes the *Telecommunications (Consumer Protection and Service Standards) Act 1999* and regulations under that Act.

49 At the end of section 585

Add:

(2) In this section:

this Act includes the *Telecommunications (Consumer Protection and Service Standards) Act 1999* and regulations under that Act.

50 At the end of section 586

Add:

(2) In this section:

this Act includes the *Telecommunications (Consumer Protection and Service Standards) Act 1999* and regulations under that Act.

51 At the end of section 587

Add:

(4) In this section:

this Act includes the *Telecommunications (Consumer Protection and Service Standards) Act 1999* and regulations under that Act.

52 Subsection 588(4)

Insert:

this Act includes the *Telecommunications (Consumer Protection and Service Standards) Act 1999* and regulations under that Act.

53 Subsection 589(6)

Insert:

this Act includes the *Telecommunications (Consumer Protection and Service Standards) Act 1999*.

54 Subsection 590(3)

Insert:

this Act includes the *Telecommunications (Consumer Protection and Service Standards) Act 1999* and regulations under that Act.

55 Subsection 591(3)

Insert:

this Act includes the *Telecommunications (Consumer Protection and Service Standards) Act 1999* and regulations under that Act.

56 At the end of section 592

Add:

(2) In this section:

this Act includes the *Telecommunications (Consumer Protection and Service Standards) Act 1999* and regulations under that Act.

57 At the end of clause 1 of Schedule 1

Add:

(2) In this clause:

this Act includes the *Telecommunications (Consumer Protection and Service Standards) Act 1999* and regulations under that Act.

58 At the end of clause 1 of Schedule 2

Add:

(2) In this clause:

this Act includes the *Telecommunications (Consumer Protection and Service Standards) Act 1999* and regulations under that Act.

59 Subclauses 13(7) and (8) of Schedule 2

Omit “Part 8”, substitute “Part 4 of the *Telecommunications (Consumer Protection and Service Standards) Act 1999*”.

60 At the end of clause 30 of Schedule 3

Add:

(2) In this clause:

this Act includes the *Telecommunications (Consumer Protection and Service Standards) Act 1999* and regulations under that Act.

61 Subclause 46(6) of Schedule 3

Omit “Part 9”, substitute “Part 5 of the *Telecommunications (Consumer Protection and Service Standards) Act 1999*”.

62 Paragraph 1(k) of Schedule 4

Omit “section 247”, substitute “section 129 of the *Telecommunications (Consumer Protection and Service Standards) Act 1999*”.

63 Paragraph 1(l) of Schedule 4

Omit “section 248”, substitute “section 130 of the *Telecommunications (Consumer Protection and Service Standards) Act 1999*”.

64 Paragraph 1(m) of Schedule 4

Omit “section 253”, substitute “section 135 of the *Telecommunications (Consumer Protection and Service Standards) Act 1999*”.

Telstra Corporation Act 1991

65 Subsection 2(3)

Repeal the subsection.

66 Section 3 (definition of ACCC)

Repeal the definition.

67 Subsection 9(3)

Omit “Part 6”, substitute “Part 9 of the *Telecommunications (Consumer Protection and Service Standards) Act 1999*”.

68 Part 6

Repeal the Part.

Trade Practices Act 1974

69 Subsection 25(1)

Schedule 3 Amendments commencing on the commencement of section 1 of the
Telecommunications (Consumer Protection and Service Standards) Act 1999

Part 1 Amendments

After “*Telecommunications Act 1997*” (first occurring), insert “, the
*Telecommunications (Consumer Protection and Service Standards) Act
1999*”.

70 Paragraph 151BU(4)(f)

Omit “Part 6 of the *Telstra Corporation Act 1991*”, substitute “Part 9 of
the *Telecommunications (Consumer Protection and Service Standards)
Act 1999*”.

71 Subparagraph 151BUA(2)(b)(iv)

Omit “Part 6 of the *Telstra Corporation Act 1991*”, substitute “Part 9 of
the *Telecommunications (Consumer Protection and Service Standards)
Act 1999*”.

72 Subparagraph 151BUB(2)(b)(iv)

Omit “Part 6 of the *Telstra Corporation Act 1991*”, substitute “Part 9 of
the *Telecommunications (Consumer Protection and Service Standards)
Act 1999*”.

73 Subparagraph 151BUC(2)(b)(iv)

Omit “Part 6 of the *Telstra Corporation Act 1991*”, substitute “Part 9 of
the *Telecommunications (Consumer Protection and Service Standards)
Act 1999*”.

74 Paragraph 151CM(1)(b)

Omit “Part 6 of the *Telstra Corporation Act 1991*”, substitute “Part 9 of
the *Telecommunications (Consumer Protection and Service Standards)
Act 1999*”.

75 Subsection 155(2)

Omit “Part 6 of the *Telstra Corporation Act 1991*”, substitute “Part 9 of
the *Telecommunications (Consumer Protection and Service Standards)
Act 1999*”.

76 Paragraph 155(9)(b)

Repeal the paragraph, substitute:

- (b) the *Telecommunications (Consumer Protection and Service
Standards) Act 1999*; or
-

Part 2—Transitional provisions

77 Transitional—eligible instruments

- (1) This item applies to an eligible instrument if:
- (a) the eligible instrument was in force immediately before the commencement of this item; and
 - (b) the eligible instrument was made or given under, or for the purposes of, a particular provision of the *Telecommunications Act 1997* or the *Telstra Corporation Act 1991*; and
 - (c) that provision is repealed by this Schedule.
- (2) The eligible instrument has effect, after the commencement of this item, as if:
- (a) it had been made or given under, or for the purposes of, the corresponding provision of the *Telecommunications (Consumer Protection and Service Standards) Act 1999*; and
 - (b) any requirement imposed by that Act in relation to the making or giving of the eligible instrument had been satisfied.

- (3) In this item:

eligible instrument means regulations, a declaration, a determination, a direction, a standard or any other instrument.

78 Transitional—acts or things done before commencement

- (1) This item applies to an act or thing (other than the making of an eligible instrument) if:
- (a) the act or thing was done before the commencement of this item; and
 - (b) the act or thing was done under, or for the purposes of, a particular provision of the *Telecommunications Act 1997* or the *Telstra Corporation Act 1991*; and
 - (c) that provision is repealed by this Schedule.

(2) The act or thing has effect, after the commencement of this item, as if it had been done under, or for the purposes of, the corresponding provision of the *Telecommunications (Consumer Protection and Service Standards) Act 1999*.

(3) In this item:

eligible instrument means regulations, a declaration, a determination, a direction, a standard or any other instrument.

79 Transitional—evidentiary certificates relating to the customer service guarantee

Despite the repeal of section 237 of the *Telecommunications Act 1997* by this Schedule, that section continues to apply, in relation to contraventions that occurred before the commencement of this item, as if that repeal had not happened.

Note: For savings in relation to contraventions that occurred before the commencement of this item, see section 8 of the *Acts Interpretation Act 1901*.

80 Transitional—ACA’s annual report on monitoring of performance

Section 105 of the *Telecommunications Act 1997* has effect, after the commencement of this item, as if the reference in that section to Part 5 of the *Telecommunications (Consumer Protection and Service Standards) Act 1999* included a reference to repealed Part 9 of the *Telecommunications Act 1997*.

81 Transitional—section 151CM of the Trade Practices Act 1974

Section 151CM of the *Trade Practices Act 1974* has effect, after the commencement of this item, as if the reference in that section to Part 9 of the *Telecommunications (Consumer Protection and Service Standards) Act 1999* included a reference to repealed Part 6 of the *Telstra Corporation Act 1991*.

82 Transitional regulations

The Governor-General may make regulations in relation to transitional matters arising out of the amendments and repeals made by this Schedule.

Schedule 4—Amendments commencing on 1 July 1999

Part 1—Amendments

Telecommunications Act 1997

1 Section 5

Omit:

- A **universal service regime** is established. The main object of the universal service regime is to ensure that all people in Australia, wherever they reside or carry on business, should have reasonable access, on an equitable basis, to:
 - (a) standard telephone services; and
 - (b) payphones; and
 - (c) prescribed carriage services.

2 Section 6 (table item 34)

Repeal the item.

3 Section 7 (definition of *approved universal service plan*)

Repeal the definition.

4 Section 7 (paragraphs (i) and (j) of the definition of *civil penalty provision*)

Repeal the paragraphs, substitute:

- (i) subsection 92(1) of the *Telecommunications (Consumer Protection and Service Standards) Act 1999*; or
- (j) subsection 92(2) of the *Telecommunications (Consumer Protection and Service Standards) Act 1999*; or

5 Section 7

Insert:

digital data service provider has the same meaning as in the
Telecommunications (Consumer Protection and Service Standards)
Act 1999.

6 Section 7 (definition of *draft universal service plan*)

Repeal the definition.

7 Section 7 (definition of *national universal service provider*)

Repeal the definition.

8 Section 7 (definition of *net cost area*)

Repeal the definition.

9 Section 7 (definition of *participating carrier*)

Repeal the definition.

10 Section 7 (definition of *regional universal service provider*)

Repeal the definition.

11 Section 7 (definition of *universal service obligation*)

Repeal the definition, substitute:

universal service obligation has the same meaning as in the
Telecommunications (Consumer Protection and Service Standards)
Act 1999.

12 Section 7 (definition of *universal service provider*)

Repeal the definition, substitute:

universal service provider has the same meaning as in the
Telecommunications (Consumer Protection and Service Standards)
Act 1999.

13 Paragraph 105(3)(e)

Omit “Part 7”, substitute “Part 2 of the *Telecommunications (Consumer Protection and Service Standards) Act 1999*”.

14 After paragraph 105(3)(e)

Insert:

- (ea) the adequacy of each digital data service provider's compliance with its obligations under Part 2 of the *Telecommunications (Consumer Protection and Service Standards) Act 1999*;

15 Parts 7 and 7A

Repeal the Parts.

16 Paragraph 529(4)(b)

Omit "Part 7", substitute "Part 2 of the *Telecommunications (Consumer Protection and Service Standards) Act 1999*".

Trade Practices Act 1974

17 Paragraph 151CM(1)(c)

Omit "Division 5 of Part 7 of the *Telecommunications Act 1997*", substitute "Division 5 of Part 2 of the *Telecommunications (Consumer Protection and Service Standards) Act 1999*".

18 At the end of subsection 151CM(1)

Add:

- ; and (d) the adequacy of each digital data service provider's compliance with its obligations under Division 5A of Part 2 of the *Telecommunications (Consumer Protection and Service Standards) Act 1999* (which deals with regulation of digital data service charges).

19 Subsection 151CM(5)

Insert:

digital data service provider has the same meaning as in the *Telecommunications (Consumer Protection and Service Standards) Act 1999*.

20 Subsection 151CM(5)

Insert:

Schedule 4 Amendments commencing on 1 July 1999

Part 1 Amendments

universal service provider has the same meaning as in the
Telecommunications (Consumer Protection and Service Standards)
Act 1999.

Part 2—Transitional provisions

21 Transitional—eligible instruments

- (1) This item applies to an eligible instrument if:
- (a) the eligible instrument was in force immediately before the commencement of this item; and
 - (b) the eligible instrument was made or given under, or for the purposes of, a particular provision of the *Telecommunications Act 1997* other than:
 - (i) Subdivisions A to G of Division 6 of Part 7 of that Act; or
 - (ii) Division 3 or 4 of Part 7A of that Act; and
 - (c) that provision is repealed by this Schedule.
- (2) The eligible instrument has effect, after the commencement of this item, as if:
- (a) it had been made or given under, or for the purposes of, the corresponding provision of the *Telecommunications (Consumer Protection and Service Standards) Act 1999*; and
 - (b) any requirement imposed by that Act in relation to the making or giving of the eligible instrument had been satisfied.
- (3) If the eligible instrument is a declaration under subsection 150(1) or (2) of the *Telecommunications Act 1997*, the instrument has effect as if it had been made under the corresponding provision of the *Telecommunications (Consumer Protection and Service Standards) Act 1999* immediately before the commencement of this item.
- (4) For the purposes of this item, it is to be assumed that section 20 of the *Telecommunications (Consumer Protection and Service Standards) Act 1999* had commenced immediately before the commencement of this item.
- (5) In this item:
- eligible instrument*** means regulations, a declaration, a determination, a direction, a standard or any other instrument.
-

22 Transitional—acts or things done before commencement

- (1) This item applies to an act or thing (other than the making of an eligible instrument) if:
- (a) the act or thing was done before the commencement of this item; and
 - (b) the act or thing was done under, or for the purposes of, a particular provision of the *Telecommunications Act 1997* other than:
 - (i) Subdivisions A to G of Division 6 of Part 7 of that Act; or
 - (ii) Division 3 or 4 of Part 7A of that Act; and
 - (c) that provision is repealed by this Schedule.
- (2) The act or thing has effect, after the commencement of this item, as if it had been done under, or for the purposes of, the corresponding provision of the *Telecommunications (Consumer Protection and Service Standards) Act 1999*.
- (3) In this item:

eligible instrument means regulations, a declaration, a determination, a direction, a standard or any other instrument.

23 Transitional—universal service regime

Despite the repeal of Part 7 of the *Telecommunications Act 1997* by this Schedule, that Part continues to apply, after the commencement of this item, in relation to:

- (a) levy, and levy debit balances, for a financial year ending on or before 30 June 1999; and
- (b) payments under section 214 of the *Telecommunications Act 1997*, and levy credit balances, for a financial year ending on or before 30 June 1999; and
- (c) payments under section 217 of the *Telecommunications Act 1997* for a financial year ending on or before 30 June 1999;

as if:

- (d) the repeal of that Part had not happened; and
 - (e) paragraphs 212(b) and (c) of the *Telecommunications Act 1997* had not been enacted.
-

24 Transitional—first year for ACA’s annual report on NRS

Despite the repeal of section 221D of the *Telecommunications Act 1997* by this Schedule, that section continues to apply, after the commencement of this item, in relation to the report for the 1998-99 financial year, as if that repeal had not happened.

25 Transitional—NRS Levy

- (1) Despite the repeal of Part 7A of the *Telecommunications Act 1997* by this Schedule, that Part continues to apply, after the commencement of this item, in relation to NRS levy for a quarter ending on or before 30 June 1999, as if:
 - (a) the repeal of that Part had not happened; and
 - (b) paragraph 221I(4)(b) of the *Telecommunications Act 1997* had not been enacted.
- (2) Part 3 of the *Telecommunications (Consumer Protection and Service Standards) Act 1999* has effect, after the commencement of this item, as if a reference in that Part to a section 64 assessment included a reference to an assessment under repealed section 193 of the *Telecommunications Act 1997*.

26 Transitional—ACA’s annual report on monitoring of performance

Section 105 of the *Telecommunications Act 1997* has effect, after the commencement of this item, as if the reference in that section to Part 2 of the *Telecommunications (Consumer Protection and Service Standards) Act 1999* included a reference to repealed Part 7 of the *Telecommunications Act 1997*.

27 Transitional—record-keeping rules

Section 529 of the *Telecommunications Act 1997* has effect, after the commencement of this item, as if the reference in that section to Part 2 of the *Telecommunications (Consumer Protection and Service Standards) Act 1999* included a reference to repealed Part 7 of the *Telecommunications Act 1997*.

28 Transitional—section 151CM of the *Trade Practices Act 1974*

Schedule 4 Amendments commencing on 1 July 1999

Part 2 Transitional provisions

Section 151CM of the *Trade Practices Act 1974* has effect, after the commencement of this item, as if the reference in that section to Division 5 of Part 2 of the *Telecommunications (Consumer Protection and Service Standards) Act 1999* included a reference to repealed Division 5 of Part 7 of the *Telecommunications Act 1997*.

29 Transitional regulations

The Governor-General may make regulations in relation to transitional matters arising out of the amendments and repeals made by this Schedule.

[*Minister's second reading speech made in—
House of Representatives on 12 November 1998
Senate on 30 November 1998*]

(172/98)
