



Communications Legislation Amendment (Information Sharing and Datacasting) Act 2007

No. 178, 2007

**An Act to amend the law relating to
communications, and for related purposes**

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)

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Communications Legislation Amendment (Information Sharing and Datacasting) Act 2007

No. 178, 2007

An Act to amend the law relating to communications, and for related purposes

[Assented to 28 September 2007]

The Parliament of Australia enacts:

1 Short title

*This Act may be cited as the Communications Legislation
Amendment (Information Sharing and Datacasting) Act 2007.*

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2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent.	28 September 2007
2. Schedule 1, Part 1, Division 1	The day after this Act receives the Royal Assent.	29 September 2007
3. Schedule 1, Part 1, Division 2	The later of: (a) immediately after the start of the day after this Act receives the Royal Assent; and (b) the time item 77 of Schedule 1 to the <i>Communications Legislation Amendment (Content Services) Act 2007</i> commences. However, the provision(s) do not commence at all if the event mentioned in paragraph (b) does not occur.	20 January 2008 (paragraph (b) applies)
4. Schedule 1, Part 2	The day after this Act receives the Royal Assent.	29 September 2007

Note: This table relates only to the provisions of this Act as originally passed by both Houses of the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

- (2) Column 3 of the table contains additional information that is not part of this Act. Information in this column may be added to or edited in any published version of this Act.

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule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

Part 1—Disclosure by ACMA officials

Division 1—Amendments commencing on the day after Royal Assent

Australian Communications and Media Authority Act 2005

1 Section 3

Insert:

ACMA official means:

- (a) a member; or
- (b) an associate member; or
- (c) a member of the ACMA staff; or
- (d) a person whose services are made available to the ACMA under subsection 55(1).

2 Section 3

Insert:

authorised disclosure information means:

- (a) information that was given in confidence to the ACMA in connection with the performance of any of the ACMA's functions or the exercise of any of its powers; or
- (b) information that was obtained by the ACMA as a result of the exercise of any of its powers under:
 - (i) Part 2, 5, 7 or 13 of the *Broadcasting Services Act 1992*; or
 - (ii) Chapter 3, 5 or 6 of the *Radiocommunications Act 1992*; or
 - (iii) Part 3, 6, 21, 26 or 27 of the *Telecommunications Act 1997*; or
 - (iv) Schedule 3A to the *Telecommunications Act 1997*; or
 - (v) Part 2 of the *Telecommunications (Consumer Protection and Service Standards) Act 1999*; or

- (c) information that was obtained by the ACMA as a result of the exercise of powers under a provision that:
 - (i) allows the ACMA or an ACMA official to require a person to give information or to produce a document; and
 - (ii) is a provision of an Act or a legislative instrument; and
 - (iii) is not a provision described in paragraph (b); or
- (d) information that was given in confidence to the ACMA by a government authority of a foreign country.

3 After Part 7

Insert:

Part 7A—Disclosure of information

59A Disclosure to Ministers

- (1) An ACMA official may disclose authorised disclosure information to the Minister.
- (2) An ACMA official may disclose to a Minister authorised disclosure information that relates to a matter arising under a provision of an Act that is administered by that Minister.
- (3) Subsection (2) does not limit subsection (1).

59B Disclosure to public servants for advising their Ministers

- (1) For the purpose of advising the Minister, an ACMA official may disclose authorised disclosure information to:
 - (a) the Secretary of the Department; or
 - (b) an APS employee in the Department who is authorised, in writing, by the Secretary of the Department for the purposes of this subsection.
- (2) For the purpose of advising a Minister administering a particular provision of an Act, an ACMA official may disclose authorised disclosure information relating to a matter arising under that provision to:

Schedule 1 Amendments

Part 1 Disclosure by ACMA officials

- (a) the Secretary of the Department that is administered by that Minister; or
 - (b) an APS employee in that Department who is authorised, in writing, by the Secretary of that Department for the purposes of this subsection.
- (3) Subsection (2) does not limit subsection (1).

59C Disclosure to Royal Commissions

- (1) An ACMA official may disclose authorised disclosure information to a Royal Commission (within the meaning of the *Royal Commissions Act 1902*).
- (2) The Chair may, by writing, impose conditions to be complied with in relation to authorised disclosure information disclosed under subsection (1).
- (3) An instrument made under subsection (2) that imposes conditions relating to one particular disclosure identified in the instrument is not a legislative instrument.
- (4) Otherwise, an instrument made under subsection (2) is a legislative instrument.

59D Disclosure to certain authorities

- (1) An ACMA official authorised by the Chair, in writing, for the purposes of this section may disclose authorised disclosure information to any of the following authorities if the Chair is satisfied that the information will enable or assist the authority to perform or exercise any of its functions or powers:
 - (a) the Australian Bureau of Statistics;
 - (b) the Australian Competition and Consumer Commission;
 - (c) the Australian Prudential Regulation Authority;
 - (d) the Australian Securities and Investments Commission;
 - (e) the Commissioner of Taxation;
 - (f) the Secretary of the Department administered by the Minister administering the *Foreign Acquisitions and Takeovers Act 1975* or an APS employee in that Department whose duties relate to that Act;

- (g) the Secretary of the Department administered by the Minister administering the *Classification (Publications, Films and Computer Games) Act 1995* or an APS employee in that Department whose duties relate to that Act;
 - (h) the Secretary of the Department administered by the Minister administering the *Telecommunications (Interception and Access) Act 1979* or an APS employee in that Department whose duties relate to telecommunications or law enforcement;
 - (i) the Australian Federal Police;
 - (j) the Director of Public Prosecutions;
 - (k) the Australian Security Intelligence Organisation;
 - (l) an authority of a State or Territory responsible for enforcing one or more laws of the State or Territory;
 - (m) the Regional Telecommunications Independent Review Committee;
 - (n) the Telecommunications Industry Ombudsman;
 - (o) an authority of a foreign country responsible for regulating matters relating to communications or media (including, for example, matters relating to broadcasting or the Internet).
- (2) The Chair may, by writing, impose conditions to be complied with in relation to authorised disclosure information disclosed under subsection (1).
- (3) An instrument made under subsection (2) that imposes conditions relating to one particular disclosure identified in the instrument is not a legislative instrument.
- (4) Otherwise, an instrument made under subsection (2) is a legislative instrument.

59E Disclosure with consent

An ACMA official may disclose authorised disclosure information that relates to the affairs of a person if:

- (a) the person has consented to the disclosure; and
- (b) the disclosure is in accordance with that consent.

59F Disclosure of publicly available information

An ACMA official may disclose authorised disclosure information if it is already publicly available.

59G Disclosure of summaries and statistics

An ACMA official may disclose:

- (a) summaries of authorised disclosure information that are not likely to enable the identification of a person; and
- (b) statistics derived from authorised disclosure information that are not likely to enable the identification of a person.

59H Disclosure authorised by regulations

- (1) The regulations may:
 - (a) authorise an ACMA official to disclose authorised disclosure information in specified circumstances; and
 - (b) provide that the Chair may, by writing, impose conditions to be complied with in relation to the disclosure of authorised disclosure information in those circumstances.
- (2) An instrument made under regulations made for the purposes of paragraph (1)(b) that imposes conditions relating to one particular disclosure identified in the instrument is not a legislative instrument.
- (3) Otherwise, an instrument made under regulations made for the purposes of paragraph (1)(b) is a legislative instrument.

59J This Part does not limit disclosure by ACMA official

This Part does not limit the circumstances in which an ACMA official is authorised to disclose information.

59K Relationship with Part 13 of the *Telecommunications Act 1997*

This Part does not authorise a disclosure of information that is prohibited by Part 13 of the *Telecommunications Act 1997*.

Note: Subsection 299(1) (in Part 13) of the *Telecommunications Act 1997* prohibits an ACMA official who has received information as described in that subsection from disclosing the information, except in certain circumstances.

59L Delegation of Chair's powers under this Part

- (1) The Chair may, by writing, delegate to a member any or all of the Chair's functions and powers under:
 - (a) this Part; or
 - (b) regulations made for the purposes of section 59H.
- (2) In performing a function, or exercising a power, delegated under subsection (1), the delegate must comply with any directions of the Chair.

4 Application of Part 7A

Part 7A of the *Australian Communications and Media Authority Act 2005* applies to the disclosure of information on and after the commencement of that Part, whether the information was given to, or obtained by, ACMA before, on or after that commencement.

Division 2—Amendment with contingent commencement

Australian Communications and Media Authority Act 2005

5 Section 3 (after subparagraph (b)(ii) of the definition of *authorised disclosure information*)

Insert:

- (ia) Schedule 7 to the *Broadcasting Services Act 1992*; or

Part 2—Datacasting

Division 1—Varying conditions of datacasting transmitter licences

Radiocommunications Act 1992

6 Paragraph 111(1)(d)

Omit “or a datacasting transmitter licence”.

7 At the end of paragraph 111(1)(d)

Add “or 109A(1)(d)”.

Division 2—Datacasting charge

Datacasting Charge (Imposition) Act 1998

8 Paragraph 6(a)

After “licence”, insert “, other than one that is a channel B datacasting transmitter licence for the purposes of the *Radiocommunications Act 1992*,”.

9 Application of amendment

The amendment of the *Datacasting Charge (Imposition) Act 1998* made by this Division applies to the financial year starting on 1 July 2007 and later financial years.

*[Minister's second reading speech made in—
House of Representatives on 20 June 2007
Senate on 17 August 2007]*

(116/07)

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