

Commonwealth of Australia

Telecommunications Act 1997

**Carrier Licence Conditions (Telstra Corporation Limited) Declaration 1997
(Amendment No. 1 of 2007)**

I, PHILIP RUDDOCK, Attorney-General, on behalf of the Minister for Communications, Information Technology and the Arts in accordance with an authorisation under section 18C of the *Acts Interpretation Act 1901*, make the following Declaration pursuant to subsection 63(5) of the *Telecommunications Act 1997*.

Dated 15 September 2007

PHILIP RUDDOCK
Attorney-General

1 Name of Declaration

This Declaration is the *Carrier Licence Conditions (Telstra Corporation Limited) Declaration 1997 (Amendment No. 1 of 2007)*.

2 Commencement

This Declaration commences on the day after it is registered on the Federal Register of Legislative Instruments.

3 Amendment of the Carrier Licence Conditions (Telstra Corporation Limited) Declaration 1997

Schedule 1 amends the *Carrier Licence Conditions (Telstra Corporation Limited) Declaration 1997*.

Schedule 1 Amendments

(clause 3)

[1] Clause 3 – Definition of **800 MHz band**

omit the definition

[2] Clause 3 – After the definition of **alternative service**

insert

Alternative Network means the mobile telecommunications network, or combination of networks, used to provide the mobile carriage services marketed by the licensee as Next G services.

[3] Clause 3 – Definitions of **AMPS** and **AMPS site**

omit the definitions

[4] Clause 3 – After the definition of **call conveyancing costs**

insert

CDMA means Code Division Multiple Access.

CDMA network means the mobile telecommunications network, or combination of networks, used to provide the mobile carriage services marketed by the licensee as CDMA services.

CDMA site means:

- (a) a metropolitan CDMA site; or
- (b) a non-metropolitan CDMA site.

[5] Clause 3 – After the definition of **enforcement agency**

insert

EVDO service means the Evolution Data Only or Evolution Data Optimized service provided via the licensee's CDMA network.

[6] Clause 3 – Definition of **metropolitan AMPS site**

omit the definition

[7] Clause 3 – Definition of **metropolitan area**

substitute

metropolitan area means a designated area described in the Schedule to the Spectrum Re-allocation Declaration No. 2 of 1997 as in force on the date the instrument was made.

metropolitan CDMA site means a base station, located in a metropolitan area, which is used as part of the CDMA network operated by the licensee.

[8] Clause 3 – Definition of *non-metropolitan AMPS site*

omit the definition

[9] Clause 3 – After the definition of *non-metropolitan area*

insert

non-metropolitan CDMA site means a base station, located in a non-metropolitan area, which is used as part of the CDMA network operated by the licensee.

[10] Clause 3 – After the definition of *portable local service number*

insert

post-paid mobile service plan means a plan under which calls made using a mobile carriage service are paid for after the service is used.

pre-paid mobile service plan means a plan under which calls made using a mobile carriage service are paid for prior to the service being used.

[11] Clause 3 – Definition of *reasonably equivalent services*

omit the definition

[12] Clause 15

substitute

15 Replacement of CDMA network

- (1) The licensee must continue to maintain the operation of its entire CDMA network until the Minister notifies the licensee that the Minister is satisfied that:
 - (a) the Alternative Network provides coverage equivalent to or better than the coverage provided by the licensee's CDMA network that was in place as at 1 June 2007; and

- (b) the Alternative Network provides retail services equivalent to or better than those provided on or in connection with the licensee's CDMA network as at 1 June 2007.
- (2) Subclause (1) does not apply:
- (a) where, on or after 15 October 2007, the licensee gives the Minister written notification that, in the opinion of the licensee, the Alternative Network meets the standards mentioned in paragraphs (1)(a) and (b); and
 - (b) within whichever is the earlier of:
 - (i) 14 weeks of the date on which a request is received under paragraph (2)(a); or
 - (ii) 3 weeks of the date on which the Minister receives a report from ACMA on whether the Alternative Network meets the standards referred to in paragraph (1)(a),the Minister has not:
 - (iii) notified the licensee that the Minister has determined that the Minister is satisfied of the matters mentioned in paragraphs (1)(a) and (b); or
 - (iv) notified the licensee that the Minister has determined that the Minister is not satisfied of the matters mentioned in paragraphs (1)(a) and (b) and the reasons for this determination, including but not limited to, any specific or systemic problems which have been identified and which would need to be rectified by the licensee in order for the Minister to be satisfied of the matters mentioned in paragraphs (1)(a) and (b).
- (3) Subclause (1) does not apply:
- (a) where the licensee receives a notification referred to in subparagraph (2)(b)(iv) or subparagraph (3)(b)(ii), and makes a further request to the Minister to determine whether the Minister is satisfied of the matters mentioned in paragraphs (1)(a) and (b); and
 - (b) as soon as practicable after receiving a request under paragraph (3)(a), the Minister has not:
 - (i) notified the licensee that the Minister has determined that the licensee has rectified all of the problems described in a notice referred to in paragraph (2)(b)(iv) and that the Minister is

satisfied of the matters mentioned in paragraphs (1)(a) and (b); or

- (ii) notified the licensee that the Minister has determined that the licensee has not rectified all of the problems described in a notice referred to in subparagraph (2)(b)(ii) and that the Minister is not satisfied of the matters mentioned in paragraphs (1)(a) and (b) and the reasons for this determination, including but not limited to, any rectification action that would still need to be taken by the licensee in order for the Minister to be satisfied of the matters mentioned in paragraphs (1)(a) and (b).
- (4) If the Minister notifies the licensee that the Minister is satisfied of the matters mentioned in paragraphs (1)(a) and (b) and the licensee ceases to maintain the operation of the whole or part of its CDMA network, the licensee must ensure that it operates in non-metropolitan areas one or more terrestrial digital mobile telecommunications networks which provide coverage in non-metropolitan areas that is equivalent to or better than that of its CDMA network that was in place as at 1 June 2007.
 - (5) The licensee is not required to comply with an obligation under subclause (1) or (4) in relation to a particular CDMA site if the licensee is unable to comply with that obligation in relation to that site because of circumstances beyond its reasonable control.
 - (6) The licensee is not required to comply with subclause (4) in relation to a particular non-metropolitan area in which another carrier or carriage service provider operates a terrestrial digital mobile telecommunications network that ACMA has certified in writing provides, within the meaning of subclause (4), equivalent coverage provided by a non-metropolitan CDMA site.
 - (7) For the purposes of this clause:
 - (a) the existence of equivalent or better coverage is to be determined having regard to:
 - (i) the area that a signal emitted from a base station covers as it is propagated around the base station; and
 - (ii) the extent to which a signal emitted from a base station is of sufficient strength to enable the

- connection and maintenance of voice calls using only an appropriate handheld mobile phone handset; and
- (iii) the extent to which a signal emitted from a base station is of sufficient strength to enable the connection and maintenance of voice calls using an appropriate mobile phone used in connection with an external aerial; and
- (b) the existence of equivalent or better services is to be determined having regard to:
- (i) the range of functions the services are capable of performing, including but not limited to, the functions of EVDO services and CDMA-based telemetry services; and
 - (ii) the availability of the services and necessary customer equipment, including handsets, to retail customers; and
 - (iii) the availability of pre-paid mobile service plans and post-paid mobile service plans; and
 - (iv) any other relevant services.

[13] Schedule 1

omit the Schedule