

EXPLANATORY STATEMENT

Issued by the Authority of the Minister for Broadband, Communications
and the Digital Economy

Telecommunications (Consumer Protection and Service Standards) Act 1999

Telecommunications (Customer Service Guarantee) Direction (No. 1) 2011

Background

Under section 115 of the *Telecommunications (Consumer Protection and Service Standards) Act 1999* (the Act), the Australian Communications and Media Authority (ACMA) has the power to make performance standards to be complied with by carriage service providers in relation to a range of matters, including the period taken to comply with requests to connect customers and the rectification of faults or service difficulties in relation to specified kinds of carriage services. The ACMA cannot make a CSG standard unless it is directed to do so by the Minister under section 124 of the Act.

Section 124 of the Act confers power on the Minister to give a direction to the ACMA about how it is to exercise its powers under Part 5 of the Act.

Acting under section 124 of the Act, the then Minister for Communications, Information Technology and the Arts made the *Telecommunications (Customer Service Guarantee) Direction No. 1 of 1999* (the 1999 CSG Direction) on 11 December 1999 and in accordance with this, the Australian Communications Authority (now known as the Australian Communications and Media Authority) made the *Telecommunications (Customer Service Guarantee) Standard 2000 (No. 2)* on 6 July 2000 (the CSG Standard).

Subsection 125(2) of the Act provides that, if the Minister revokes a direction to the ACMA requiring it to make an instrument imposing a CSG standard, the ACMA must revoke the standard that is in force because of the direction.

The 1999 CSG Direction was revoked by the *Communications (Redundant Regulation) Instrument of Revocation (No. 1) 2009*, and the revocation took effect on 24 December 2009, being the day after the instrument of revocation was registered on the Federal Register of Legislative Instruments. The 2009 instrument was made for the purposes of removing from the Federal Register a number of instruments which were considered to be of no ongoing effect. Subsection 125(2) was overlooked at the time the instrument was made. The CSG Standard in force at that time has not been revoked.

The purpose of this Direction is require the ACMA, in accordance with section 124 of the Act, to make a new instrument imposing standards under section 115 of the Act in the same terms as the *Telecommunications (Customer Service Guarantee) Standard 2000 (No.2)*, as in force on 23 December 2009.

Consultation

The ACMA has been consulted about this Direction.

Commencement

This Instrument is to commence on the day after it is registered on the Federal Register of Legislative Instruments.

Details of the accompanying Direction are set out in the Attachment.

ATTACHMENT**Details of the Telecommunications (Customer Service Guarantee) Direction (No. 1) 2011**1 Name of Direction

Section 1 provides that the name of the Direction is the *Telecommunications (Customer Service Guarantee) Direction (No. 1) 2011*.

2 Commencement

Section 2 provides that the Direction will commence on the day after it is registered on the Federal Register of Legislative Instruments.

3 Definitions

Section 3(1) sets out a definition of two key terms used in the Direction, which are self explanatory.

The term **Act** is defined to mean the *Telecommunications (Consumer Protection and Service Standards) Act 1999*.

The term **ACMA** is defined to mean the Australian Communications and Media Authority.

4 Direction

Section 4 directs the ACMA to make a standard under section 115 of the Act in the same terms as the *Telecommunications (Customer Service Guarantee) Standard 2000 (No.2)*, as in force on 23 December 2009.

The reference in section 4 to the CSG Standard as in force on 23 December 2009 makes it clear that the ACMA is required to make a standard under section 115 in substantially the same terms as those contained in the CSG Standard which was in force on the day immediately before the 1999 CSG Direction was revoked.