

Commonwealth of Australia

Telecommunications (Consumer Protection and Service Standards) Act 1999

Telecommunications (Participating Persons) Determination 2015

I, MALCOLM BLIGH TURNBULL, Minister for Communications, make the following Determination under subsection 44(2) of the *Telecommunications (Consumer Protection and Service Standards) Act 1999*.

Dated 30 June 2015

MALCOLM BLIGH TURNBULL
Minister for Communications

1 Name of Determination

This Determination is the *Telecommunications (Participating Persons) Determination 2015*.

2 Commencement

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

3 Application

This Determination applies in relation to all eligible revenue periods.

4 Definitions

(1) In this Determination:

ACMA means the Australian Communications and Media Authority.

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

Australia, when used in a geographical sense, has the same meaning as in the *Telecommunications Act 1997*.

company secretary has the same meaning as in the *Corporations Act 2001*.

director has the same meaning as in section 9 of the *Corporations Act 2001*.

Eligible Revenue Determination means the *Telecommunications (Eligible Revenue) Determination 2015* as in force from time to time.

eligible statutory declaration has the meaning given in subsection 4(2) of this Determination.

gross telecommunications sales revenue for an eligible revenue period is the amount that would be that person's 'gross telecommunications sales revenue' under the Eligible Revenue Determination, if that person were a participating person.

initial sales revenue for an eligible revenue period is the amount that would be that person's 'initial sales revenue' under the Eligible Revenue Determination, if that person were a participating person.

non-participating person has the meaning given in subsection 4(3) of this Determination.

specified timeframe, in relation to an eligible revenue period, means the period of time within which a participating person is required to submit an eligible revenue return for that period, as specified by the ACMA under paragraph 43(1)(b) of the Act.

ultimate Australian parent entity has the same meaning as in the Eligible Revenue Determination.

Note: The terms **eligible revenue**, **eligible revenue period** and **participating person** have the same meaning as given by section 5 of the Act.

- (2) A declaration given by a person is an **eligible statutory declaration** if it is made:
 - (a) by:
 - (i) if the person is a company — any of the following:
 - (A) a director or company secretary of the company; or
 - (B) any person authorised in writing by the company to make the declaration; or
 - (ii) if the person is a natural person — the person; and
 - (b) in accordance with the *Statutory Declarations Act 1959*.
- (3) A person is a **non-participating person** for an eligible revenue period, subject to subsection 4(4) of this Determination, if:
 - (a) the person's initial sales revenue for the eligible revenue period is less than \$25 million; and
 - (i) within the specified timeframe for the eligible revenue period, the person provides to the ACMA an eligible statutory declaration stating that the person's initial sales revenue for the eligible revenue period was less than \$25 million; or

- (ii) the ACMA is otherwise reasonably satisfied that the person's initial sales revenue for the eligible revenue period was less than \$25 million; or
 - (b) the person's gross telecommunications sales revenue for the eligible revenue period is less than \$25 million; and
 - (i) within the specified timeframe for the eligible revenue period, the person provides to the ACMA an eligible statutory declaration stating that the person's gross telecommunications sales revenue for the eligible revenue period was less than \$25 million; or
 - (ii) the ACMA is otherwise reasonably satisfied that the person's gross telecommunications sale revenue for the eligible revenue period was less than \$25 million; or
 - (c) the person's eligible revenue for the eligible revenue period is less than \$25 million; and
 - (i) within the specified timeframe for the eligible revenue period, the person provides to the ACMA an eligible statutory declaration stating that the person's eligible revenue for the eligible revenue period was less than \$25 million; or
 - (ii) the ACMA is otherwise reasonably satisfied that the person's eligible revenue for the eligible revenue period was less than \$25 million.
- (4) If a person has the same ultimate Australian parent entity as one or more other carriers (or carriage service providers, if a determination under paragraph 44(1)(b) of the Act is in force), then, for the purposes of calculating the following:
- (a) initial sales revenue for the purposes of paragraph 4(3)(a);
 - (b) gross telecommunications sales revenue for the purposes of paragraph 4(3)(b); or
 - (c) eligible revenue for the purposes of paragraph 4(3)(c);
- each carrier (or carriage service provider as applicable) must make the relevant calculations on a group basis, accounting for revenue and deductions as a whole.

5 Determination

If a person is a non-participating person for an eligible revenue period, the person is exempt from section 44 of the Act for that eligible revenue period.