

EXPLANATORY STATEMENT

Issued by authority of the Treasurer

Competition and Consumer Act 2010

*Competition and Consumer Amendment (Competition Policy Review)
Regulations 2017*

Section 172 of the *Competition and Consumer Act 2010* (the CCA) provides that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

The purpose of the *Competition and Consumer Amendment (Competition Policy Review) Regulations 2017* (the Regulations) is to make consequential amendments to the *Competition and Consumer Regulations 2010* (the CCA Regulations) following amendments made to the CCA by the *Competition and Consumer Amendment (Misuse of Market Power) Act 2017*, the *Competition and Consumer Amendment (Competition Policy Review) Act 2017* and the *Communications Legislation Amendment (Deregulation and Other Measures) Act 2017*.

These consequential amendments include repealing redundant provisions, updating references to provisions of the CCA, removing prescribed forms which are now to be forms approved by the ACCC, and prescribing procedural details for new processes under the CCA.

Further details of the Regulations are set out in [Attachment A](#).

The CCA does not specify any conditions that need to be met before the power to make the Regulations may be exercised.

The Regulations are a legislative instrument for the purposes of the *Legislation Act 2003*.

Part 1 of Schedule 1 to the Regulations was released for public consultation between 9 August 2017 and 22 August 2017. No submissions were received and no amendments were made to Part 1 following consultation. Consultation with the ACCC was undertaken on Part 2 of Schedule 1 to the Regulations. Public consultation was not undertaken on Part 2 of Schedule 1 to the Regulations as the amendments are technical and consequential to legislative changes.

The Regulations commence on the day they are registered. The commencement dates for various provisions in Schedule 1 to the Regulations are set out in [Attachment A](#).

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Competition and Consumer Amendment (Competition Policy Review) Regulations 2017

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

The Competition and Consumer Amendment (Competition Policy Review) Regulations 2017 (the Regulations) makes consequential amendments to the *Competition and Consumer Regulations 2010* (the CCA Regulations) following amendments made to the Competition and Consumer Act 2010 (the CCA) by the *Competition and Consumer Amendment (Misuse of Market Power) Act 2017*, the *Competition and Consumer Amendment (Competition Policy Review) Act 2017* and the *Communications Legislation Amendment (Deregulation and Other Measures) Act 2017*.

These consequential amendments include repealing redundant provisions, updating references to provisions of the CCA, removing prescribed forms which are now to be forms approved by the ACCC, and prescribing procedural details for new processes under the CCA.

Human rights implications

This Legislative Instrument does not engage any of the applicable rights or freedoms.

Conclusion

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

ATTACHMENT A:

Details of the Competition and Consumer Amendment (Competition Policy Review) Regulations 2017

This attachment sets out further details of the *Competition and Consumer Amendment (Competition Policy Review) Regulations 2017* (the Regulations).

All references are to provisions of the *Competition and Consumer Regulations 2010* (the CCA Regulations) unless provided otherwise.

In 2014, the Government commissioned a ‘root and branch’ review of Australia’s competition framework. The Final Report of the Competition Policy Review made 56 recommendations on competition law, policy and institutions (of which the Government supported 40 in full or in principle and five in part, and noted or remained open to the remaining 11 recommendations). In relation to the National Access Regime (NAR), the Government adopted the recommendations made by the Productivity Commission in its 2013 Inquiry Report into the Regime.

The *Competition and Consumer Amendment (Competition Policy Review) Act 2017* (the CPR Act) and the *Competition and Consumer Amendment (Misuse of Market Power) Act 2017* implement a significant number of the competition law reforms recommended by the Competition Policy Review, including:

- strengthening the prohibition against the misuse of market power;
- replacing the price signalling provisions with a general prohibition on concerted practices with the purpose, effect or likely effect of substantially lessening competition;
- abolishing the merger clearance process and providing for merger authorisation applications to be determined by the Australian Competition and Consumer Commission (ACCC) and reviewed by the Australian Competition Tribunal;
- introducing class exemptions for conduct that the ACCC determines does not raise competition concerns;
- amending the NAR to better target the lack of competition in markets for infrastructure services where third party access is required.

The Regulations make a number of consequential amendments to the CCA Regulations, following changes made to the CCA by the amending Acts. Key amendments to the CCA Regulations include:

- removing references to repealed provisions of the CCA;
- repealing prescribed forms for authorisation and notification, which are now to be approved by the ACCC;
- introducing a new form for applications to the Australian Competition Tribunal, for review in relation to new decisions which the ACCC or the Minister can

make (such as a decision of the ACCC to extend a stop notice for collective boycotts beyond 90 days);

- amending or introducing requirements for existing and new applications under Part IIIA of the CCA; and
- prescribing details for new procedures under the CCA (such as a time after which resale price maintenance notifications commence and a fee for such notifications).

The Regulations also make consequential amendments to the provisions in the CCA Regulations, which relate specifically to the telecommunications industry, to:

- amend the CCA Regulations to reflect the CCA as amended by the *Telecommunications Legislation Amendment (Competition and Consumer Safeguards) Act 2010*, the *Telecommunications Competition Act 2002* and the *Trade Practices Amendment (Telecommunications) Act 1997*; and
- remove regulations and references relating to tariff filing rules under Part XIB of the CCA which are obsolete as a result of the *Communications Legislation Amendment (Deregulation and Other Measures) Act 2017*.

Section 1 – Name of Regulations

This section provides that the title of the Regulations is the *Competition and Consumer Amendment (Competition Policy Review) Regulations 2017*.

Section 2 – Commencement

This section provides that the Regulations commence as follows:

- Sections 1 to 4 commence on the day the Regulations are registered.
- Part 1 of Schedule 1 commences immediately after Schedule 1 to the *Competition and Consumer Amendment (Competition Policy Review) Act 2017* commences.
- Division 1 of Part 2 of Schedule 1 commences the day after the Regulations are registered.
- Division 2 of Part 2 of Schedule 1 commences on the later of the day the Regulations are registered and the day Part 1 of Schedule 3 to the *Communications Legislation Amendment (Deregulation and Other Measures) Act 2017* (Deregulation Act) commences, but does not commence at all if Part 1 of Schedule 3 to the Deregulation Act does not commence.

Section 3 – Authority

This section provides that the Regulations are made under the *Competition and Consumer Act 2010*.

Section 4 – Schedules

Schedule 1 – Amendments

Part 1 – Main amendments

Item 1

Item 1 repeals paragraphs 6A(f) to 6A(k). These paragraphs reflected the declaration criteria in the former section 44G of the *Competition and Consumer Act 2010* (the CCA), which was repealed by the CPR Act and replaced with the new sections 44G and 44CA. Item 1 substitutes a new paragraph 6A(f) which simplifies the regulation by making reference to all the declaration criteria together rather than individually.

Item 1 is supported by subsection 172(1) of the CCA, as it is necessary and convenient to give effect to section 44F of the CCA as amended by the CPR Act. It prescribes content of an application to the National Competition Council (NCC) for a declaration recommendation, to assist the NCC to undertake its function under section 44F of the CCA.

Item 2

Item 2 inserts a new regulation 6BA, to outline prescribed content for an application to the NCC for a recommendation to revoke a decision that a regime is an effective access regime.

This reflects the new Subdivision CA of Part IIIA of the CCA, introduced by the CPR Act. Subdivision CA allows for revocation of the Commonwealth Minister's decision that a regime is an effective access regime, on recommendation of the NCC.

Item 2 is supported by subsection 172(1) of the CCA as it is necessary and convenient to give effect to subsection 44NBA(3) of the CCA. It prescribes content of an application to the NCC for a recommendation to revoke a decision that a regime is an effective access regime. This assists the NCC to undertake its function under subsection 44NBA(3) of the CCA.

Item 3

Item 3 repeals regulation 9, which previously prescribed commencement periods and applicable forms for use in relation to notification of exclusive dealing and private disclosure of pricing information (price-signalling).

The previous regulation 9 was made redundant by the CPR Act, which: repealed provisions related to price-signalling; replaced references to 'prescribed forms' for notification and authorisation with references to 'forms approved by the Commission'; and placed the prohibition on third-line forcing under the same competition test as other forms of exclusive dealing.

The repeal of the previous regulation 9 means that notifications for third-line forcing will now commence immediately, consistently with notifications for other forms of exclusive dealing.

The CPR Act also made notification available for resale price maintenance conduct, as an alternative to seeking authorisation. Under subsection 93(7A) of the CCA, resale price maintenance notifications commence after 60 days, unless otherwise prescribed in the CCA Regulations.

The previous regulation 9 is replaced with a new regulation 9, which provides that a notification of resale price maintenance comes into force:

- after 28 days, if it is given during the 12 months after Schedule 1 to the CPR Act commences; or
- after 14 days, if it is given at another time.

Item 4

Item 4 removes reference to ‘Division 3 of Part VII’ from regulation 13, as that Division was repealed by the CPR Act and therefore there will no longer be any applications under that Division.

Item 5

Item 5 amends subregulations 20(2) and 20(3) to include reference to applications under section 101B of the CCA. The CPR Act added ‘class exemptions’ to the CCA, which allows the ACCC to create an effective ‘safe harbour’ for business practices that are unlikely to generate competition concerns or are likely to generate a net public benefit. The CPR Act also added to the CCA:

- section 95AB, which allows the ACCC to give a person a notice withdrawing the benefit of a class exemption in a particular case; and
- section 101B, which allows a person who is dissatisfied with the giving of the notice to apply to the Tribunal for review of the ACCC’s decision, within the time prescribed by the CCA Regulations.

As amended, regulation 20 provides that a person dissatisfied with a section 101B notice must apply for review within 21 days of the date of the notice, and must make their application in accordance with Form J.

Subregulations 20(2) and 20(3) are also re-written for simplification.

Item 6

Item 6 inserts a new subregulation 20A(2A), to outline requirements for an application to the Tribunal under subsection 44O(1A) of the CCA for review of a decision of the Commonwealth Minister made under section 44NBC of the CCA.

This reflects that the new Subdivision CA of Part IIIA of the CCA, introduced by the CPR Act, provides for the Commonwealth Minister to decide to revoke or not to revoke a decision that a regime is an effective access regime, and the new subsection 44O(1A) provides for relevant parties to apply to the Tribunal for review of the decision made by the Commonwealth Minister.

Item 6 is supported by paragraph 172(1)(a) of the CCA, as it is in connexion with the procedure of the Tribunal. It ensures that the procedure for application to the Tribunal reflects the CCA as amended by the CPR Act. Item 6 is also supported by paragraph 44ZZP(1)(e) of the CCA as it relates to procedures of the Tribunal.

Item 7

Item 7 amends subregulation 22(2), to provide that the Tribunal's power to give directions, under subregulation 22(1), is subject to subsections 102(8) to 102(10) of the CCA. Those subsections were added to the CCA by the CPR Act, and relate to Tribunal review in relation to a merger authorisation determination of the ACCC. Broadly, when conducting such a review, the Tribunal is to have regard only to the information, documents and evidence listed in subsection 102(10), unlike a review in relation to a non-merger authorisation which is conducted as a full rehearing. Subsection 102(9) also provides that the Tribunal may allow a person to provide new information, documents or evidence that the Tribunal is satisfied was not in existence at the time of the ACCC's decision.

Item 7 ensures that any directions made by the Tribunal, as part of a review of a merger authorisation determination, are consistent with the CCA's limitations on how such reviews are to be conducted.

This amendment is made pursuant to subsection 44ZZP(1) of the CCA, which allows the regulations to prescribe matters related to procedure and evidence in relation to review by the Tribunal. Item 7 is further supported by paragraph 172(1)(a) of the CCA, which provides that regulations may prescribe matters in connexion with the procedure of the Tribunal, as item 7 is necessary to ensure that where the CCA provides for a limited merits review, this is reflected in, and not circumvented by, the Regulations.

Item 8

Item 8 adds a new subregulation 22A(4), to provide that the Tribunal's power to permit persons to tender evidence by written statement is subject to subsections 102(8) to 102(10) of the CCA.

Item 8 ensures that, where the Tribunal permits a person to tender evidence by written statement, as part of a review of a merger authorisation determination, this power is exercised consistently with the CCA's limitations on how such reviews are to be conducted.

This amendment is made pursuant to subsection 44ZZP(1) of the CCA, which allows the regulations to prescribe matters related to procedure and evidence in relation to review by the Tribunal. Item 8 is further supported by paragraph 172(1)(a) of the CCA, which provides that regulations may prescribe matters in connexion with the procedure of the Tribunal (among others), as item 8 is necessary to ensure that where the CCA provides for a limited merits review, this is reflected in, and not circumvented by, the Regulations.

Item 9

Item 9 removes reference to the Tribunal from subregulation 24(1), as regulation 24 relates to the confidentiality of documentation contained on a register, and the Tribunal will no longer be keeping a register as it will no longer be the first-instance decision-maker for merger authorisations.

Item 10

Item 10 removes table items 3 and 4 from subregulation 24(1), as those table items refer to provisions of the CCA which have been repealed by the CPR Act.

Item 11

Item 11 removes reference to paragraph 22(1)(b) of the CCA from subregulation 24(5). This reflects the fact that section 22 of the CCA was repealed in 1977.

Item 12

Item 12 repeals subregulations 24(6) and 24(7), as they are made redundant by the fact that the Tribunal will no longer be keeping a register. Subregulation 24(6) only exists to provide a trigger for certain consequences under subregulation 24(7). Subregulation 24(7) is made redundant by the fact that the Tribunal will no longer be keeping a register, which means that the trigger in subregulation 24(6) is also redundant.

Item 13

Item 13 repeals paragraphs 26(2)(a) and 26(2)(ab), as paragraph 26(2)(ab) refers to regulation 74 (which is repealed by item 24) and section 111 of the CCA (which was repealed by the CPR Act), and is therefore redundant. Paragraph 26(2)(a) is rewritten to incorporate reference to applications for review under section 101B of the CCA, consistently with the treatment of applications for review under section 101A of the CCA. This amendment ensures that a failure to apply for a review under section 101B within 21 days of the relevant determination (as required under regulation 20) is appropriately excluded from subregulation 26(1) (which broadly provides that proceedings may continue despite non-compliance with a provision of the CCA Regulations).

Item 14

Item 14 amends paragraph 26(2)(b), to reflect the fact that many of the forms previously prescribed by the CCA Regulations and listed under paragraph 26(2)(b) are now to be forms approved by the ACCC. The amendment ensures that a failure to state an address for service, in the appropriate place on a form approved by the ACCC, is appropriately excluded from subregulation 26(1) (which broadly provides that proceedings may continue despite non-compliance with a provision of the CCA Regulations).

Item 14 is supported by paragraph 172(1)(a) of the CCA, which provides that regulations may prescribe matters in connexion with the procedure of the Tribunal, the ACCC and the AER. Item 14 is necessary to ensure that the requirement to provide an address for service, which is a crucial element of any legal proceedings, is not undermined by the move from prescribed forms to forms approved by the ACCC.

Item 15

Item 15 removes reference to the Tribunal from subregulation 28(5), as the Tribunal will no longer be receiving applications for merger authorisation and therefore all of the fees listed at Schedule 1B will be payable to the ACCC and not the Tribunal.

Item 16

Item 16 repeals paragraph 28(6A)(a), as it deals with when concessional fees are payable for additional notices given before 31 December 2008. As that date has long since passed, paragraph 28(6A)(a) is redundant. Paragraph 28(6A)(b) is renumbered following the repeal of paragraph 28(6A)(a), but is otherwise unchanged.

Item 17

Item 17 repeals subparagraph 28(7)(a)(i) of the definition of ‘additional notice’ (when given by a person who is an individual or a proprietary company), as it is redundant following the repeal of the price-signalling provisions by the CPR Act.

Item 18

Item 18 adds reference to section 48 of the CCA to the definition of an ‘additional notice’ given by a person who is an individual or a proprietary company (subparagraph 28(7)(a)(v)). This amendment reflects the fact that the CPR Act made notification available for resale price maintenance conduct, as an alternative to seeking authorisation. This amendment ensures that an additional notice for resale price maintenance attracts a concessional fee under Schedule 1B.

Item 19

Item 19 repeals subparagraph 28(7)(b)(i) of the definition of ‘additional notice’ (when given by a person who is not an individual or a proprietary company), as it is redundant following the repeal of the price-signalling provisions by the CPR Act.

Item 20

Item 20 adds reference to section 48 of the CCA to the definition of an ‘additional notice’ given by a person who is not an individual or a proprietary company (subparagraph 28(7)(b)(v)). This amendment reflects the fact that the CPR Act made notification available for resale price maintenance conduct, as an alternative to seeking authorisation. This amendment ensures that an additional notice for resale price maintenance attracts a concessional fee under Schedule 1B.

Item 21

Item 21 amends subregulation 28(7) (the definition of ‘first application’), to reflect the fact that all authorisations will now be granted under a single provision (section 88 of the CCA), rather than multiple provisions for authorising various forms of conduct.

This amendment is supported by paragraph 172(1)(d) of the CCA, as it relates to the fees payable to the ACCC on the making of a prescribed application.

Item 22

Item 22 repeals Part 4 of the CCA Regulations, as the whole of Part 4 deals with price-signalling and is therefore redundant following the repeal of the price-signalling provisions of the CCA by the CPR Act.

Item 23

Item 23 repeals regulations 70 and 71, as they respectively prescribe the forms for use in applications for non-merger authorisation and notifications. As amended by the CPR Act, the CCA provides for each of the listed forms to be forms approved by the ACCC, rather than prescribed forms, which makes regulations 70 and 71 redundant.

Item 24

Item 24 repeals regulations 72, 73 and 74.

Regulation 72 relates to when collective bargaining notices commence, but is now redundant as it only deals with collective bargaining notices given before 1 January 2009. This amendment does not change the period for commencement of collective bargaining notices given after 1 January 2009.

Regulation 73 prescribes the forms for use in relation to merger authorisations and clearances. The CPR Act repealed the merger clearance process (which renders the respective forms redundant), and also provides for the forms related to merger authorisations to be forms approved by the ACCC, rather than prescribed, which makes regulation 73 redundant.

Regulation 74 prescribes the period in which an application for Tribunal review in relation to a merger clearance must be made, and is also made redundant following the repeal of the merger clearance process by the CPR Act.

Item 25

Item 25 repeals the explanatory note at regulation 83, to align with current drafting practices. The repeal of the note is not intended to alter the operation of regulation 83.

Item 26

Item 26 inserts a new Part 8 into the CCA Regulations, which contains transitional and application provisions.

New regulation 96 inserts a definition of ‘amending Schedule’ (defined as Schedule 1 to the Regulations).

New subregulation 97(1) provides that the amendment to regulation 6A (by item 1) only applies in relation to applications made on or after the day Part 1 of the amending Schedule commences.

New subregulation 97(2) provides that, despite the amendment made by the amending Schedule, regulation 13 continues to apply, in relation to applications made before the

day Part 1 of the amending Schedule commences, as if regulation 13 had not been amended.

Item 27

Item 27 amends Form AA of Part 1 of Schedule 1 to the CCA Regulations, to update the pre-filled portion of the date at the bottom of the form.

Item 28

Item 28 repeals Parts 2 and 3 of Schedule 1 to the CCA Regulations, which are redundant following changes by the CPR Act. Those Parts contain forms for use in applications for non-merger authorisation and notifications, which are now to be forms approved by the ACCC rather than prescribed in the CCA Regulations.

Item 29

Item 29 amends Form I of Part 1 of Schedule 1 to the CCA Regulations, to update the pre-filled portion of the date in question 1 of the form.

Item 30

Item 30 adds a note to question 5 in Form I of Part 4 of Schedule 1 to the CCA Regulations. As discussed under items 7 and 8, there are certain limitations on the information, documents and evidence which can be put before the Tribunal as part of a review of a merger authorisation determination of the ACCC. This note is inserted to ensure that applicants for such a review are aware that the review will not be a full rehearing, and is to be based on the material before the ACCC when it made its determination, unless otherwise permitted by subsection 102(10) of the CCA.

Item 31

Item 31 amends Form I of Part 1 of Schedule 1 to the CCA Regulations, to update the pre-filled portion of the date at the bottom of the form.

Item 32

Item 32 re-writes Form J, which is used in applications to the Tribunal for review of certain decisions of the ACCC, to additionally provide for Tribunal review of new types of notices which can be given by the ACCC (which were added by the CPR Act).

Form J will now be used to make applications under either section 101A or 101B of the CCA, to review the giving of a notice under:

- subsection 93(3) (a notice revoking a notification for exclusive dealing);
- subsection 93(3A) (a notice revoking a notification for resale price maintenance);
- subsection 93(3B) (a notice revoking a resale price maintenance notification for a failure to comply with conditions imposed on that notification);

- subsection 93AAA(1) (a notice imposing conditions on a resale price maintenance notification);
- subsection 93AC(1) (an objection notice for a notification of collective bargaining given under subsection 93AB(1A));
- subsection 93AC(2) (an objection notice for a notification of collective bargaining given under subsection 93AB(1));
- subsection 93AC(2A) (a notice revoking a collective bargaining notification which includes collective boycott for a failure to comply with conditions imposed on that notification);
- subsection 93ACA(1) (a notice imposing conditions on a collective bargaining notification which partially or wholly includes collective boycott conduct);
- subsection 93AD(5) (a notice determining an alternative period of up to 10 years in which a collective bargaining notice expires);
- subsection 93AG(7) (a notice extending a stop notice, which requires collective boycott conduct to temporarily cease, by up to a further 90 days); or
- section 95AB (a notice withdrawing the benefit of a class exemption in a particular case).

Item 33

Item 33 amends Form JA and JB of Part 4 of Schedule 1 to the CCA Regulations, to update the pre-filled portion of the date at the bottom of the forms.

Item 34

Item 34 introduces a new Form JBA to be used for applications to the Tribunal under subsection 44O(1A) of the CCA for review of a decision of the Commonwealth Minister made under section 44NBC of the CCA. Both subsection 44O(1A) and section 44NBC were added to the CCA by the CPR Act.

Item 35

Item 35 amends Form JC, K and L of Part 4 of Schedule 1 to the CCA Regulations, to update the pre-filled portion of the date at the bottom of the form.

Item 36

Item 36 repeals Part 5 of Schedule 1 to the CCA Regulations, which is redundant following changes by the CPR Act. Part 5 contains forms for use in applications for merger authorisation and clearance, and Tribunal review in relation to the same. The CPR Act repealed the merger clearance process (which renders the respective forms redundant), and also provides for the forms related to merger authorisations to be forms approved by the ACCC, rather than prescribed.

Item 37

Item 37 updates the table of fees payable in relation to applications and notices, at Schedule 1B to the CCA Regulations.

The table is updated to:

- remove reference to the Tribunal, as the Tribunal will no longer receive applications for merger authorisation;
- update references to the relevant provisions under which authorisation may be sought or notification given, following changes by the CPR Act;
- remove the concessional fee for additional applications for authorisation, on the basis that subsection 88(5) of the CCA now allows for a single application to seek authorisation for several types of conduct;
- add a fee for notification of resale price maintenance conduct, and set that fee at \$1,000 (\$0 for an additional notice); and
- apply the same fee and concessional fee to all notifications for exclusive dealing, consistently with the fact that third line forcing is now assessed under the same test as other types of exclusive dealing.

Part 2 – Amendments relating to telecommunications

Division 1 – Main Amendments

Item 38

Item 38 repeals subregulations 20A(4) and (5). Subregulations 20A(4) and (5) were made redundant by the *Telecommunications Legislation Amendment (Competition and Consumer Safeguards) Act 2010* (CCS Act), which repealed sections 152AV and 152CE of the CCA. Former section 152AV related to Tribunal review of exemption order decisions regarding standard access obligations and former section 152CE related to Tribunal review of access undertakings.

Item 39

Item 39 repeals subregulations 22B(5) and (6). Subregulations 22B(5) and (6) were made redundant by the CCS Act, which repealed section 152AV and 152CE of the CCA. Former section 152AV related to Tribunal review of exemption order decisions regarding standard access obligations and former section 152CE related to Tribunal review of access undertakings.

Item 40

Item 40 omits from subregulation 28(2A) the references to “152CJ(3), 152EA(3) and 152ED(7)” and substitutes the reference “and 152CJ(3)”. The references to subsections 152EA(3) and 152ED(7) were made redundant by the CCS Act, which repealed Divisions 8 and Division 9 of Part XIC of the CCA. Division 8 related to the resolution of access disputes and Division 9 related to registered agreements for access to declared services.

Item 41

Item 41 omits from regulation 28B the reference to “or 152CP” from the definition of ‘determination’, which was made redundant by the CCS Act, which repealed Division 8 of the CCA. Division 8 related to the resolution of access disputes.

Item 42

Item 42 omits from regulation 28B reference to “or 152DO” from the definition of ‘review’. Reference to “or 152DO” is made redundant by the *Telecommunications Competition Act 2002* (TC Act), which repealed Subdivision F of Division 8 of Part XIC of the CCA. Subdivision F related to review of access determinations.

Item 43

Item 43 repeals subregulation 28C(1A), which provides that an application for review under section 152DO of the CCA must be in accordance with Form LA in the CCA Regulations. Subregulation 28C(1A) is made redundant by the TC Act, which repealed Subdivision F to Division 8 of Part XIC of the CCA. Former Subdivision F related to review of access determinations and contained section 152DO.

Item 44

Item 44 repeals paragraph 28R(a), which defines that an access dispute is a dispute mentioned in section 152CM of the CCA. Paragraph 28R(a) is made redundant by the CCS Act, which repealed Division 8 of Part XIC of the CCA. Former Division 8 dealt with the resolution of access dispute and contained section 152CM.

Item 45

Item 45 repeals the terms ‘determination—section 152CL’ and ‘party—section 152CL’ from Note 1 at regulation 28R. Note 1 at regulation 28R is made redundant by the CCS Act, which repealed Division 8 of Part XIC of the CCA. Former Division 8 related to the resolution of access disputes and contained section 152CL.

Item 46

Item 46 makes a technical amendment to regulation 28Y by substituting the word ‘register’ with the word ‘Register’ in paragraphs 28Y(a), 28Y(b) and 28Y(d). The amendment aligns the CCA Regulations with relevant provisions in the CCA, which refer to the specific Registers with a capital ‘R’.

Item 47

Item 47 removes the paragraphs (e) to (i) of the definition of *Part XIB or XIC register* in regulation 28Y and substitutes them with new paragraphs (e) to (j).

Existing paragraph 28Y(e) is made redundant by the CCS Act, which repealed Division 4 of Part XIC of the CCA. Former Division 4 related to telecommunications access codes.

New paragraphs 28Y(e)-(h) are required by the CCS Act, which inserted a new Subdivision F of Division 4 of Part XIC, Subdivision D of Division 4A of Part XIC and Division 4B of Part XIC. Subdivision F requires a register of access determinations, Subdivision D requires a register of binding rules of conduct and Division 4B relates to access agreements.

Existing paragraph 28Y(h) is made redundant by the CCS Act, which repealed Division 8 of Part XIC of the CCA. Former Division 8 related to the resolution of access disputes.

Existing paragraph 28Y(i) is made redundant by CCS Act, which repealed Division 9 of Part XIC of the CCA. Former Division 9 related to now obsolete registered agreements for access to declared services.

New paragraphs 28Y(i)-(j) replicate paragraphs 28Y(f) and 28Y(g) in the CCA Regulations because sections 152CC and 152CJ of the CCA remain in operation. Section 152CC requires a register of access undertakings and section 152CJ requires a register of Ministerial pricing determinations.

Item 48

Item 48 repeals Forms JD, JE and LA of Part 4 of Schedule 1.

Form JD is made redundant by the CCS Act, which repealed section 152AV of the CCA. Section 152AV related to Tribunal review of exemption order decisions regarding standard access obligations.

Form JE is also made redundant by the CCS Act, which repealed section 152CE of the CCA, which related to Tribunal review of access undertakings.

Form LA is made redundant by the TC Act, which repealed Subdivision F of Division 8 of the CCA. Former Subdivision F related to review of access determinations.

Division 2 – Amendments relating to the Communications Legislation Amendment (Deregulation and Other Measures) Act 2017

This Division removes references from the CCA Regulations to regulations relating to the tariff filing rules under Division 4 of Part XIB of the CCA. Division 4 is to be repealed on the commencement of the *Communications Legislation Amendment (Deregulation and Other Measures) Act 2017* (Deregulation Act).

This Division commences on the later of the day the Regulations are registered and the day Part 1 of Schedule 3 to the Deregulation Act commences, but does not commence at all if Part 1 of Schedule 3 to the Deregulation Act does not commence.

Item 49

Item 49 amends subregulation 28(2A) to remove the reference to subsection 151BR(4) of the CCA, which requires the ACCC to keep a Register in relation to tariff filing directions. Subregulation 28(2A) prescribes the fees for making copies of certain Registers specified under the CCA. The reference to subsection 151BR in subregulation 28(2A) is made redundant due to its repeal by the Deregulation Act.

Item 50

Item 50 repeals subregulation 28(2C), which sets out the fees to copy tariff information under subsection 151BQ(3) of the CCA. Subregulation 28(2C) is made redundant due to the repeal of subsection 151BQ(3) by the Deregulation Act.

Item 51

Item 51 repeals paragraph 28Y(c), which specifies the register of tariff filing directions as being a Part XIB or XIC register for the purposes of Division 4 to Part 2B in the CCA Regulations. Paragraph 28Y(c) is made redundant on the commencement of the Deregulation Act, which repeals the tariff filing provisions under Division 4 of Part XIB of the CCA.