

## **EXPLANATORY STATEMENT**

### ***Telecommunications (Carrier Licence Charges) Act 1997***

### **Determination under Paragraph 15(1)(b) No. 1 of 2019**

### **Issued by the Australian Competition and Consumer Commission**

#### **Legislative Provisions**

The *Telecommunications (Carrier Licence Charges) Act 1997* (the Act) sets out the method for imposing annual charges in relation to the carrier licences held by telecommunications carriers under the *Telecommunications Act 1997*. Subsection 15(1) of the Act provides that the total of charges that are imposed on carrier licences in force at the beginning of a financial year must not exceed the sum of:

- a) the amount determined, by a written instrument made by the Australian Communications and Media Authority (ACMA), to be the proportion of the ACMA's costs for the immediately preceding financial year that is attributable to the ACMA's telecommunications functions and powers; and
- b) the amount determined, by a written instrument made by the Australian Competition and Consumer Commission (ACCC), to be the proportion of the ACCC's costs for the immediately preceding financial year that is attributable to the ACCC's telecommunications functions and powers; and
- c) the amount determined, by a written instrument made by the ACMA, to be the proportion of the Commonwealth's contribution to the budget of the International Telecommunication Union for the calendar year in which the beginning of the financial year occurs that is to be recovered from carriers; and
- (ca) the amount determined, by a written instrument made by the ACMA, to be the sum of the amounts paid under section 136C of the *Telecommunications Act 1997* during the immediately preceding financial year; and
- d) the amount determined, in a written instrument made by the Minister, to be the estimated total amount of grants likely to be made during the financial year under section 593 of the *Telecommunications Act 1997*.

Paragraph 15(4)(b) of the Act defines “cost” and provides that in relation to the ACCC, costs means an amount that, in accordance with accrual-based accounting principles, is treated as a cost of the ACCC. The ACCC’s costs for the 2017-18 financial year have been calculated in accordance with those principles.

A determination made under subsection 15(1) of the Act is a legislative instrument for the purposes of the *Legislation Act 2003*.

#### **Purpose**

The Determination has been made for the purposes of paragraph 15(1)(b) of the Act, and provides that \$13,295,863 is the amount determined to be the proportion of costs for the 2017-18 financial year that is attributable to the ACCC’s telecommunications functions and powers. Of this amount, \$1,531,854 relates to costs incurred on the ACCC’s Measuring Broadband Australia program.

#### **Consultation**

The ACMA, on behalf of the ACCC, conducted a public consultation in relation to the making of this Determination. The consultation period was open to carriers on 22 July 2019 for a four week period ending 19 August 2019. Two submissions were received relating to the ACCC which raised

significant issues regarding the drafting of this instrument. Responses to these issues are published on the ACMA website in Attachment D of the *Cost Recovery Implementation Statement: Annual Carrier Licence Charge for the charging period 1 July 2018 to 30 June 2019*.

## **Statement of Compatibility with Human Rights**

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

*Telecommunications (Carrier Licence Charges) Act 1997*

### **DETERMINATION UNDER SECTION 15(1)(b) No. 1 of 2019 – 29 OCTOBER 2019**

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**

This Determination provides the Australian Competition and Consumer Commission's relevant costs for the immediately preceding financial year that is attributable to the ACCC's telecommunications functions and powers, which is to be used in the calculation of the 2017-18 Annual Carrier Licence Charge under the *Telecommunications (Carrier Licence Charges) Act 1997*.

#### **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.

*Rodney Graham Sims, Chair, Australian Competition and Consumer Commission*