



Telecommunications (ACCC Inquiry into Access to Regional Towers and Associated Infrastructure) Direction 2022

I, Paul Fletcher, Minister for Communications, Urban Infrastructure, Cities and the Arts, make the following direction.

Dated 25 March 2022

Paul Fletcher
Minister for Communications, Urban Infrastructure, Cities and the Arts

Contents

1 Name.....	1
2 Commencement	1
3 Authority.....	1
4 Definitions	1
5 Direction	2

1 Name

This instrument is the *Telecommunications (ACCC Inquiry into Access to Regional Towers and Associated Infrastructure) Direction 2022*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument.	The day after this instrument is registered.	

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under subsection 496(1) of the *Telecommunications Act 1997*.

4 Definitions

- (1) In this instrument:

ACCC means the Australian Competition and Consumer Commission.

Act means the *Telecommunications Act 1997*.

towers includes NBN towers, radio and television broadcasting towers and other suitable towers or similar structures that could be used to improve mobile coverage.

- (2) For the purposes of this instrument, reference to ‘likely users’ in subsections 5(2) and (3) includes telecommunications carriers, telecommunications service providers, utilities, emergency service organisations, and other operators of radiocommunications equipment.

5 Direction

(1) I direct the ACCC to hold a public inquiry under Division 3 of Part 25 of the Act, commencing no later than 1 July 2022, in relation to:

- (a) access to towers and associated passive and active infrastructure provided by telecommunications and other infrastructure providers in regional, rural, remote and peri-urban areas within Australia, that can be used in the supply of mobile telecommunications and other radiocommunications services; and
- (b) the feasibility of temporary mobile roaming services to be provided during natural disasters and other such emergencies.

Note 1: For the purposes of paragraph (a), reference to ‘telecommunications and other infrastructure providers’ includes specialist tower operators, neutral host operators, telecommunications carriers, owners of other suitable infrastructure, utilities, and emergency service organisations.

Note 2: Under section 505 of the Act, the ACCC must prepare a report setting out its findings as a result of the inquiry and give a copy to the Minister. The ACCC is expected to provide a copy of this report to the Minister as soon as is reasonably practicable, or otherwise within 12 months from the commencement of this inquiry.

(2) The ACCC must have regard to all of the following matters (without limitation) in connection with the conduct of the inquiry:

- (a) the costs of providing towers and associated passive and active infrastructure that can be used by third party telecommunications providers and others to supply mobile telecommunications and other radiocommunications services;
- (b) the costs of accessing land to provide the towers and associated infrastructure referred to in paragraph (a);
- (c) the existing commercial and other fee arrangements under which third party telecommunications providers and other likely users can access the towers and associated infrastructure referred to in paragraph (a), including the considerations that contribute to establishing such fee arrangements (such as the costs of providing such access, as distinguished from the costs of providing the towers and associated infrastructure);
- (d) the effectiveness of current commercial and regulatory arrangements in enabling third party telecommunications providers and other likely users to access the towers and associated infrastructure referred to in paragraph (a);
- (e) the kinds of matters (including the impact of costs) providers of the towers and associated infrastructure referred to in paragraph (a) consider in deciding to:
 - (i) provide the towers and associated infrastructure referred to in paragraph (a); and
 - (ii) provide access to such towers and infrastructure.
- (f) how the kinds of matters described in paragraph (e) may affect the provision of greater mobile coverage;
- (g) the implications (if any) for the provision of access to towers and associated infrastructure referred to paragraph (a) of mobile carriers divesting their tower and associated infrastructure businesses, including (without limitation):

-
- (i) the scope of access offered;
 - (ii) the terms and conditions of access;
 - (iii) the commercial and other fee arrangements for access; and
 - (iv) the kinds of considerations that contribute to establishing these commercial and other fee arrangements for access;
- (h) the feasibility of providing temporary mobile roaming services during natural disasters and other such emergencies, including (without limitation):
- (i) the technical feasibility of providing such services;
 - (ii) the support systems and business processes required; and
 - (iii) the associated time and costs expected in providing such services.
- (3) The ACCC must consult with the following persons, bodies, and agencies (as applicable, but without limitation) in respect of the matters described in subsection (2):
- (a) providers of the towers and associated infrastructure referred to in paragraph (2)(a);
 - (b) providers of other infrastructure that could similarly be used in supplying mobile telecommunications and other radiocommunications services;
 - (c) likely users of the towers and associated infrastructure referred to in paragraph (2)(a); and
 - (d) members of the community that may be interested in improvements in mobile coverage and / or temporary mobile roaming services to be provided during natural disasters and other such emergencies.