



# **Telecommunications Legislation Amendment Act 2000**

**No. 152, 2000**

**An Act to amend the *Telecommunications Act 1997*  
and the *Australian Communications Authority Act*  
*1997*, and for related purposes**



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## An Act to amend the *Telecommunications Act 1997* and the *Australian Communications Authority Act 1997*, and for related purposes

[Assented to 21 December 2000]

The Parliament of Australia enacts:

### 1 Short title

This Act may be cited as the *Telecommunications Legislation  
Amendment Act 2000*.

### 2 Commencement

This Act commences on the day on which it receives the Royal  
Assent.

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### **3 Schedule(s)**

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

## **Schedule 1—Telecommunications Act 1997**

### **1 Subsection 474(1)**

Repeal the subsection, substitute:

- (1) The ACA may, by notice in the *Gazette*, determine that, for the purposes of this Division, a specified person or association is a ***declared manager of electronic addressing*** in relation to a specified kind of electronic addressing and a specified kind of listed carriage service.

### **2 Paragraph 474(3)(b)**

Repeal the paragraph, substitute:

- (b) the ACA considers that the person or association is not managing that kind of electronic addressing to the ACA's satisfaction.

### **3 At the end of subsection 474(6)**

Add "or consumer protection".

### **4 Subsection 475(1)**

Repeal the subsection, substitute:

- (1) The ACA may, by written notice given to a declared manager of electronic addressing in relation to a particular kind of electronic addressing and a particular kind of listed carriage service, direct the manager to do, or refrain from doing, a specified act or thing relating to that kind of electronic addressing and that kind of carriage service.

### **5 Subsection 475(3)**

Repeal the subsection, substitute:

- (3) In determining whether the kind of electronic addressing is of public importance, the ACA must have regard to the extent to which the addressing is of significant social and/or economic importance.

### **6 Subsection 476(1)**

Repeal the subsection, substitute:

- (1) The ACCC may, by written notice given to a declared manager of electronic addressing in relation to a particular kind of electronic addressing and a particular kind of listed carriage service, direct the manager to do, or refrain from doing, a specified act or thing relating to that kind of electronic addressing and that kind of carriage service.

**7 At the end of paragraph 476(2)(b)**

Add “or consumer protection”.

**8 Subsection 476(3)**

Repeal the subsection, substitute:

- (3) In determining whether the kind of electronic addressing is of public importance, the ACCC must have regard to the extent to which the addressing is of significant social and/or economic importance.



## **Schedule 2—Australian Communications Authority Act 1997**

### **1 Section 4**

Insert:

*listed carriage service* has the same meaning as in the *Telecommunications Act 1997*.

### **2 Before paragraph 8(1)(a)**

Insert:

- (aa) if a written instruction issued by the Minister to do so is in force—to prepare to provide for the management of electronic addressing:
  - (i) of a kind specified in the instruction; and
  - (ii) relating to a kind of listed carriage service specified in the instruction;
- (ab) if an instruction under paragraph (aa) and a written instruction issued by the Minister to do so are in force—to provide for the management of electronic addressing:
  - (i) of a kind specified in the instruction under this paragraph and covered by the instruction under paragraph (aa); and
  - (ii) relating to a kind of listed carriage service specified in the instruction under this paragraph and covered by the instruction under paragraph (aa);

### **3 At the end of section 8**

Add:

- (4) An instruction under paragraph (1)(aa) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.
- (5) An instruction under paragraph (1)(ab) must be published in the *Gazette*.
- (6) The Minister may, by written notice, revoke an instruction under paragraph (1)(aa) or (ab).

- (7) A notice revoking an instruction under paragraph (1)(aa) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.
- (8) A notice revoking an instruction under paragraph (1)(ab) must be published in the *Gazette*.
- (9) Subsections (6), (7) and (8) do not affect the operation of subsection 33(3) of the *Acts Interpretation Act 1901* in relation to:
  - (a) provisions of this Act other than paragraph (1)(aa) or (ab); and
  - (b) the power to amend or vary an instruction under paragraph (1)(aa) or (ab).

#### 4 After section 12

Insert:

##### **12A ACA to consult with the Australian Competition and Consumer Commission in relation to management of electronic addressing**

The ACA must consult the Australian Competition and Consumer Commission before carrying out an act:

- (a) for the purpose of performing its functions under paragraph 8(1)(aa) or (ab); and
- (b) that would, in the ACA's opinion, have a significant effect on competition or consumer protection.

#### 5 After subsection 53(2)

Insert:

- (2A) For the purposes of recovering all or part of the ACA's expenses relating to the performance of its functions under paragraph 8(1)(aa) or (ab), the ACA may charge a person an amount that has been:
  - (a) agreed with the person; or
  - (b) worked out under an agreement with the person.

Note 1: Paragraph 8(1)(aa) is about the ACA preparing to provide for the management of electronic addressing, and paragraph 8(1)(ab) is about the ACA providing for the management of electronic addressing.

Note 2: Subsection (2A) lets the ACA charge a consenting person for things done by the ACA in performing those functions, even though the charge would be a tax if it were imposed on the person without his or her consent.

(2B) Subsection (2A) does not limit subsection (1).

Note: The ACA need not obtain a person's agreement to a charge that relates to the ACA's expenses in performing its functions mentioned in subsection (2A) and does not amount to taxation (either because the charge is a fee for the ACA providing the person with services or facilities or for another reason).

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*[Minister's second reading speech made in—  
Senate on 30 August 2000  
House of Representatives on 7 December 2000]*

(149/00)

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