EXPLANATORY STATEMENT

_Telecommunications (Consumer Protection and Service Standards) (Late Payment of USO Levy) Amendment Determination 2005 (No. 1)_

Issued by the authority of the Australian Communications Authority (‘ACA’).

This instrument is the _Telecommunications (Consumer Protection and Service Standards) (Late Payment of USO Levy) Amendment Determination 2005 (No. 1)_ (the Amendment Determination). It amends the _Telecommunications (Consumer Protection and Service Standards) (Late Payment of USO Levy) Determination 2001_ (the Determination).

Under subsection 23D(1) of the 1999 Act a person is liable to a penalty on the unpaid amount of a Universal Service Obligation (USO) levy for each day until the entire levy has been paid. Subsection 23D(2) prescribes the penalty rate at 20% per year, or such lower rate as the ACA determines in writing for the purposes of this subsection.

The ACA made the Determination on 14 November 2001 under subsection 23D(2) of the Act.

The purpose of the Amendment Determination is to simplify the late payment penalty calculation by amending the lower percentage specified in the Determination.

**Consultation**

Application of the amended lower percentage rate simplifies the late payment penalty calculation making it easier for the carrier to understand and results in an immaterial variation to the penalty amount payable (calculated using the previous lower percentage rate).

The Office of Regulation Review advised that a Regulation Impact Statement (RIS) is not required for the change to the instruments (ID number 6402).

The Department of Finance and Administration advised that a Cost Recovery Impact Statement (CRIS) is not required given that fines and pecuniary penalties are excluded from the cost recovery policy.

**Notes on the Determination**

**Section 1 - Name of Determination**

Section 1 provides that the name of the Amendment Determination is the _Telecommunications (Consumer Protection and Service Standards) (Late Payment of USO Levy) Amendment Determination 2005 (No. 1)_.

**Section 2 - Commencement**

Section 2 provides for the commencement of the Amendment Determination on the day after registration.
Section 3 – Amendment of Telecommunications (Consumer Protection and Service Standards) (Late Payment of USO Levy) Determination 2001

Section 3 provides that the Determination is amended in accordance with Schedule 1 of the Amendment Determination.

Schedule 1 - Amendments

Schedule 1 sets out the amendments to the Determination which will be taken to have commenced on the day after registration of the Amendment Determination.

Item [1] – Section 3, definition of general interest charge rate

Item 1 amends the definition of the lower percentage rate applied to calculate the penalty amount. The *general interest charge (GIC) rate* defined to mean the general interest charge rate provided for by section 8AAD of the *Taxation Administration Act 1953* has been omitted. Consequently the *previous financial year average GIC rate* defined to mean the rate worked out in accordance with Schedule 1 has been inserted.

Item [2] – Section 5

Item 2 omits reference to the *general interest charge rate* and replaces it with the *previous financial year average GIC rate*.

Item [3] – Section 6

Item 3 omits reference to the *general interest charge rate* and replaces it with the *previous financial year average GIC rate*.

Item [4] – After section 6

Item 4 introduces Schedule 1 Calculation of previous financial year average GIC rate and consists of two sections. Section 1 of Schedule 1 provides the formula definition of the *previous financial year average GIC rate* in section 3. Section 2 of Schedule 1 specifies the rounding provisions to apply when calculating the *previous financial year average GIC rate* using the formula definition.