Explanatory Statement

Telecommunications (Submarine Cable Permit – Application Charge) Determination 2007

Australian Communications and Media Authority Act 2005

Legislative Provisions

The Telecommunications (Submarine Cable Permit – Application Charge) Determination 2007 (the Determination) has been made to revoke and replace the Telecommunications (Submarine Cable Permit – Application Charge) Determination 2006 (No.2). The Determination provides updated charges arising from a review of ACMA’s cost recovery fees and charges.

Subsection 60(1) of the Australian Communications and Media Authority Act 2005 provides that ACMA may, by written instrument, make determinations fixing charges for services provided by ACMA and in relation to any matter in which expenses are incurred by ACMA under this Act and other Acts including the Telecommunications Act 1997, the Telecommunications (Consumer Protection and Service Standards) Act 1999 and the Broadcasting Services Act 1992. The charges must not be such as to amount to taxation.

This determination is a legislative instrument for the purposes of the Legislative Instruments Act 2003 (as stated in subsection 136C (7) of the Act).

Background

ACMA reviewed its fees and charges as part of a scheduled five-yearly review of its cost recovery arrangements. ACMA reviewed its existing fees and charges against cost recovery principles outlined in the Australian Government’s Cost Recovery Guidelines.

The review resulted in updates to a range of existing charges, including charges for services provided by ACMA under the Telecommunications Act 1997.

This determination specifies the charges payable by telecommunications carriers to ACMA to recover the expenses incurred by ACMA for issuing permits for carriers to install one or more submarine cables in protection zones and non-protection zones.

The determination is named the Telecommunications (Submarine Cable Permit – Application Charge) Determination 2007.

Regulation Impact

ACMA has obtained the advice of the Office of Best Practice Regulation (formerly the Office of Regulation Review) that a Regulation Impact Statement is not required for the Determination as the proposal does not have a significant impact on business or the economy. A Cost Recovery Impact Statement has been prepared which outlines the basis for calculating the charges payable.
Consultation

A consultation paper about the review of ACMA’s existing cost recovery fees and charges was released for public comment on 22 December 2006. The consultation paper proposed the change to the carrier licence application charge in this determination. The consultation paper was also published on ACMA’s website and was provided directly to telecommunications carriers, carriage service providers and to a range of industry bodies and associations.

ACMA received five submissions on the proposed arrangements.

Commencement of Determination

The Determination commences on 1 May 2007.
Details of the determination

Section 1 – Name of Determination

Section 1 provides for the citation of the Determination as the Telecommunications (Submarine Cable Permit – Application Charge) Determination 2007.

Section 2 – Commencement

Section 2 provides that the Determination commences on 1 May 2007.

Section 3 – Revocation

Section 3 revokes the Determination known as the Telecommunications (Submarine Cable Permit – Application Charge) Determination 2006 (No.2).

Section 4 – Interpretation

Section 4 defines some of the key terms in the determination and specifies that terms used in the Determination have the same meaning as the Telecommunications Act 1997.

Section 5 – Purpose of this Determination

Section 5 states the purpose of this Determination, which is to fix charges for services provided by ACMA in relation to ACMA’s expenses in connection with dealing with an application for a protection zone installation permit or a non-protection zone installation permit and as do not relate to a public inquiry held in relation to that application.

Section 6 - Charges

Section 6 specifies the charges to be imposed on an application in relation to certain permits to install submarine cables by reference to Column 3, Column 4 and item 4 of Schedule 1.

Section 7 - By whom and when is the charge payable

Section 7 specifies when and by whom a charge is payable.

Section 8 - Refund

Section 8 specifies that if ACMA’s expenditure on external consultants in connection with a non-protection zone installation is less than the amount specified in item 4 of Schedule 1, ACMA must refund the amount by which the expenditure is less.
Schedule 1  Charges Payable

**Item [1] Protection zone installation permit charge**
Item [1] details the application charge for the consideration and processing of an application to install a submarine cable in a protection zone.

**Item [2] Protection zone installation permit – permit extension charge**
Item [2] details the application charge for the consideration and processing of an application to extend a protection zone installation permit.

**Item [3] Non-protection zone installation permit charge**
Item [3] details the application charge for the consideration and processing of an application to install a submarine cable in Australian waters that are not a protection zone and not the coastal waters of a State or Territory, and which is not an application for a linked non-protection zone installation permit, other than for the use of external consultants.

**Item [4] Non-protection zone installation permit expert consultancy charge**
Item [4] details the charge for the use by ACMA of external consultants to assist in considering the application mentioned in item [3].

**Item [5] Non-protection zone installation permit – permit extension charge**
Item [5] details the application charge for the consideration and processing of an application to extend a non-protection zone installation permit.

**Item [6] Linked non-protection zone installation permit charge**
Item [6] details the application charge for the consideration and processing of an application to for a linked non-protection zone installation permit, other than for the use of external consultants.