
		Page
Division 3.5	Arbitration procedure	
18	Constitution of ACCC for conduct of arbitration	19
19	Member of ACCC presiding at an arbitration	19
20	Reconstitution of ACCC: single member	19
21	Reconstitution of ACCC: more than 1 member	20
22	Determination of questions	20
23	Particular powers of ACCC	21
24	Hearing to be in private	21
25	Right to representation	22
26	Procedure of ACCC	22
27	Power to take evidence on oath or affirmation	23
28	Failing to attend as a witness	23
29	Failing to answer questions etc	24
30	False or misleading evidence	24
31	False or misleading document	24
32	Intimidation etc	25
33	Disturbing an arbitration hearing etc	26
34	Party may request ACCC to treat material as confidential	26
35	Parties to pay costs of an arbitration	27

Regulation 1

Part 1 Preliminary

1 Name of Regulations

These Regulations are the *Broadcasting Services (Transmitter Access) Regulations 2001*.

2 Commencement

These Regulations commence on gazettal.

3 Definitions

In these Regulations:

access provider means the owner or operator of:

- (a) a broadcasting transmission tower; or
- (b) a designated associated facility.

access seeker, in relation to access that is described in clause 45, 45A or 46 of Schedule 4 to the Act, means a person described as an access seeker in that clause.

Note An ***access seeker*** is one of the following persons seeking access under clause 45, 45A or 46:

- the holder of a commercial television broadcasting licence
- a national broadcaster
- a datacaster.

Act means the *Broadcasting Services Act 1992*.

broadcasting transmission tower has the meaning given by clause 2 of Schedule 4 to the Act.

business day has the meaning given by clause 43 of Schedule 4 to the Act.

designated associated facility has the meaning given by clause 43A of Schedule 4 to the Act.

determination means a determination made by the ACCC under these Regulations.

Regulation 4

Part 2 Access to designated associated facilities

4 Exemptions from obligation to give access

- (1) For subclause 45A (9) of Schedule 4 to the Act, the owner or operator of a designated associated facility is not required to give an access seeker access to the facility if giving access would have any of the following effects:
- (a) preventing an existing customer from obtaining a sufficient amount of a service provided by means of the designated associated facility to be able to meet the customer's reasonably anticipated requirements, measured at the time when the request for access was made;
 - (b) preventing the owner or operator from obtaining a sufficient amount of a service provided by means of the designated associated facility to be able to meet the owner's or operator's reasonably anticipated requirements, measured at the time when the request for access was made;
 - (c) preventing a person from obtaining, by the exercise of a pre-request right, a sufficient level of access to a service provided by means of the designated associated facility to be able to meet the person's actual requirements;
 - (d) depriving any person of a protected contractual right.
- (2) The owner or operator is not required to give access if there are reasonable grounds to believe that the access seeker:
- (a) would fail, to a material extent, to comply with the terms and conditions on which the owner or operator complies, or is reasonably likely to comply, with the obligation to give access; or
 - (b) would fail, in connection with the obligation to give access, to protect:
 - (i) the integrity of a telecommunications network; or

Regulation 4

- (ii) the safety of individuals working on, or using services supplied by means of, a telecommunications network or a facility.

Note The obligation to give access is in subclauses 45A(2) and (4) of Schedule 4 to the Act.

- (3) Examples of grounds for believing as mentioned in paragraph (2) (a) include:
 - (a) evidence that the access seeker is not creditworthy; and
 - (b) repeated failures by the access seeker to comply with the terms and conditions on which the same or similar access has been provided (whether or not by the owner or operator).

Part 3 Arbitration

Division 3.1 General

5 Application of Part 3

This Part applies to the conduct of an arbitration by the ACCC, under clause 47 of Schedule 4 to the Act, that relates to the terms and conditions of access to:

- (a) a broadcasting transmission tower; or
- (b) a site of a broadcasting transmission tower; or
- (c) a designated associated facility situated on, at, in or under:
 - (i) a broadcasting transmission tower; or
 - (ii) the site on which a broadcasting transmission tower is situated.

Note The arrangements in this Part are based on the Telecommunications (Arbitration) Regulations and Part XIC of the *Trade Practices Act 1974*.

6 Arbitration

- (1) If the ACCC is to be an arbitrator under clause 47 of Schedule 4 to the Act, the ACCC must conduct an arbitration in accordance with these Regulations.
- (2) The parties to the arbitration are:
 - (a) the access seeker; and
 - (b) the access provider; and
 - (c) if the ACCC considers that a determination may affect another person (whether or not the determination would require the other person to do something), the other person; and
 - (d) any other person who:
 - (i) applies in writing to be made a party; and
 - (ii) is accepted by the ACCC as having a sufficient interest in the dispute.

Division 3.2 Notification of dispute

7 Notification

- (1) An access seeker may notify the ACCC in writing that a dispute exists if the access seeker is unable to agree about the terms and conditions on which access is, or is to be, given by an access provider.
- (2) An access provider may notify the ACCC in writing that a dispute exists if the access provider is unable to agree about the terms and conditions on which access is, or is to be, given to an access seeker.
- (3) Examples of cause of disagreement for subregulation (1) or (2) include:
 - (a) the price, or the method of establishing the price, at which access is provided; and
 - (b) whether a previous ACCC determination should be varied.
- (4) The notification must include the following information:
 - (a) the name of the person notifying the dispute (the *notifier*), and, if the notifier is not an individual, the name and address of an individual who represents the notifier;
 - (b) the notifier's address for the delivery of documents in relation to the notice;
 - (c) whether the notifier is the access seeker or the access provider;
 - (d) if the notifier is the access seeker, the name and address of the access provider;
 - (e) if the notifier is the access provider, the name and address of the access seeker;
 - (f) the provision of the Act that requires the access to be given;
 - (g) a description of the dispute, including:
 - (i) whether the dispute is about varying existing terms and conditions of access and, if it is, a description of the existing terms and conditions; and

Regulation 8

- (ii) each aspect of the terms and conditions on which the parties are able to agree; and
 - (iii) each aspect of the terms and conditions on which the parties are unable to agree;
 - (h) a description of any effort that has been made to resolve the dispute, including efforts to appoint an arbitrator in accordance with paragraph 47 (1) (b), 47 (1A) (b) or 47 (2) (b) of Schedule 4 to the Act;
 - (i) if the parties have failed to agree on the appointment of an arbitrator — confirmation of the failure to agree;
 - (j) any other information that the notifier considers relevant.
- (5) Examples of other information for paragraph (4) (j) include the name and address of a person that the notifier considers may have an interest in the dispute.
- (6) If the ACCC is notified by an access seeker, the ACCC must give written notice of the dispute to the access provider.
- (7) If the ACCC is notified by an access provider, the ACCC must give written notice of the dispute to the access seeker.
- (8) If the ACCC considers that the resolution of the dispute may involve requiring another person to do something, the ACCC must give written notice of the dispute to the other person.
- (9) The ACCC must give written notice of the dispute to any other person whom the ACCC considers may wish to become a party.
- Note* See paragraph 6 (2) (d).
- (10) A contravention of subregulation (4) does not affect the validity of a notification.

8 Withdrawal of notification of dispute

- (1) If an access seeker has notified the ACCC that a dispute exists, the access seeker:
- (a) may withdraw notification of the dispute before the ACCC makes its final determination; and
 - (b) is not otherwise authorised to withdraw notification.

Regulation 8

- (2) If an access provider has notified the ACCC that a dispute exists:
 - (a) the access provider may withdraw notification of the dispute before the ACCC makes its final determination; and
 - (b) if the dispute does not relate to the variation of a final determination, the access seeker may withdraw notification of the dispute given by the access provider after the ACCC issues a draft of its final determination, but before the ACCC makes its final determination; and
 - (c) the access provider and the access seeker are not otherwise authorised to withdraw notice.
- (3) The withdrawal of notification must:
 - (a) be in writing to the ACCC; and
 - (b) include the following information:
 - (i) the name of the person withdrawing notification;
 - (ii) whether the person withdrawing notification is the access provider or the access seeker;
 - (iii) a short description of the dispute to which the notice relates;
 - (iv) a reference to the provision of this regulation under which the person is withdrawing notification.
- (4) The withdrawal of notification takes effect when the notice is received by the ACCC.
- (5) A person who withdraws notification must give a copy of the notice of withdrawal to the access seeker or access provider who is a party to the dispute.
- (6) The ACCC must give a copy of the notice to:
 - (a) any person to whom the ACCC gave notice of the dispute under subregulation 7 (6) or (7); and
 - (b) any other person to whom paragraph 6 (2) (c) or (d) applies.
- (7) If notification is withdrawn:
 - (a) the Commission must not make a final determination in relation to the dispute; and

Regulation 9

- (b) if the Commission has not already made an interim determination in relation to the dispute, the Commission must not make an interim determination in relation to the dispute.

Division 3.3 Determination-making process

9 Determinations — general

- (1) Unless the ACCC terminates an arbitration under regulation 16, or notification of the dispute is withdrawn under regulation 8, the ACCC must make a written final determination on the terms and conditions of access.
- (2) A determination may deal with any matter relating to access, including matters that were not the basis for notification of the dispute.
- (3) Examples of matters relating to access with which a determination may deal for subregulation (2) include:
 - (a) requiring the access provider to give the access seeker access to a broadcasting transmission tower, designated associated facility or site; and
 - (b) requiring the access seeker to accept, and pay for, access to a broadcasting transmission tower, designated associated facility or site; and
 - (c) specifying the terms and conditions on which the access provider is to comply with any or all of the obligations under clauses 45, 45A and 46 of Schedule 4 to the Act that are applicable to the access provider; and
 - (d) specifying any other terms and conditions under which the access seeker is given access to a broadcasting transmission tower, designated associated facility or site; and
 - (e) requiring a party to extend or enhance the capability of a broadcasting transmission tower, designated associated facility or site; and
 - (f) specifying the extent to which the determination overrides an earlier determination relating to the giving of access to

a broadcasting transmission tower, designated associated facility or site.

- (4) A determination must not require the access provider to give access if the requirement is already imposed by Part 5 of Schedule 4 to the Act or any other law of the Commonwealth.
- (5) Before the ACCC makes a determination, the ACCC must:
 - (a) give a draft determination to each party; and
 - (b) state in the draft determination whether it is:
 - (i) a draft interim determination; or
 - (ii) a draft final determination.
- (6) If the ACCC prepares a draft interim determination:
 - (a) the ACCC must, at the same time as giving the draft interim determination to each party, issue a written notice specifying an objection period during which an access seeker may object to the making of an interim determination relating to the arbitration; and
 - (b) the objection period must be at least 7 business days, starting when the draft interim determination is first given to a party.
- (7) If the ACCC makes a determination, it must give each party its reasons for making the determination.

10 Interim determination

- (1) The ACCC may express a determination to be an interim determination.
- (2) The making of an interim determination does not:
 - (a) terminate an arbitration; or
 - (b) relieve the ACCC from its duty to make a final determination.
- (3) Subject to subregulation (4), the ACCC must not make an interim determination if, at any time within the objection period, the access seeker gives the ACCC a written notice objecting to the making of the interim determination.

Regulation 11

- (4) The ACCC may make an interim determination within the objection period if the access seeker informs the ACCC, in writing, that the access seeker has no objection to the making of an interim determination within the period.
- (5) The Commission may take the following matters into account in making an interim determination:
 - (a) a matter mentioned in subregulation 15 (1);
 - (b) any other matters that it thinks are relevant.
- (6) In making an interim determination, the Commission does not have a duty to consider whether to take into account a matter mentioned in subregulation 15 (1).

11 Duration of interim determination

- (1) An interim determination has effect on the date specified in the determination.
- (2) Unless sooner revoked, an interim determination remains in force until the end of the period (not longer than 12 months) specified in the determination.

12 Revocation of interim determination

- (1) The ACCC may revoke an interim determination.
- (2) The ACCC must revoke an interim determination if the ACCC is requested to do so by all of the parties to the determination.
- (3) If:
 - (a) an interim determination relating to a dispute is in force; and
 - (b) the notification of the dispute is withdrawn under regulation 8;the interim determination is taken to have been revoked when the notification is withdrawn.
- (4) If:
 - (a) an interim determination relating to a dispute is in force; and

- (b) a final determination relating to the dispute takes effect; the interim determination is taken to have been revoked when the final determination takes effect.

13 Variation of interim determination

- (1) The ACCC may vary an interim determination.
- (2) Regulations 14 and 15 apply to the variation as if:
 - (a) in a case where the interim determination was made in arbitration of a dispute relating to an earlier final determination of a dispute (the *eligible dispute*) between the access seeker and the access provider:
 - (i) a dispute (the *notional dispute*) arising out of the interim determination had been notified at the time when the eligible dispute was notified; and
 - (ii) the notional dispute were a dispute relating to the earlier final determination; and
 - (iii) the variation were the making of an interim determination in the terms of the varied interim determination; or
 - (b) in any other case:
 - (i) a dispute arising out of the interim determination had been notified at the time when the original dispute was notified; and
 - (ii) the variation were the making of an interim determination in the terms of the varied interim determination.

14 Restrictions on determinations about designated associated facility

The ACCC must not make an interim or final determination, in relation to a designated associated facility to which an arbitration relates, that would:

- (a) be inconsistent with an exemption mentioned in Part 2; or
- (b) result in the access seeker becoming the owner (or one of the owners) of any part of a facility without the consent of the owner of the facility; or

Regulation 15

- (c) require a party (other than the access seeker) to bear some or all of the costs of:
 - (i) extending or enhancing the capability of a facility; or
 - (ii) maintaining extensions to or enhancements of the capability of a facility.

15 Matters that ACCC must take into account in final determination

- (1) The ACCC must take the following matters into account in making a final determination:
 - (a) the legitimate business interests of the parties, and the parties' investment in facilities used in giving access to a broadcasting transmission tower, designated associated facility or site to which the arbitration relates;
 - (b) the interests of all persons who have been given access to a broadcasting transmission tower, designated associated facility or site to which the arbitration relates;
 - (c) the direct costs of giving access to a broadcasting transmission tower, designated associated facility or site to which the arbitration relates;
 - (d) the operational and technical requirements for the safe and reliable operation of:
 - (i) a broadcasting transmission tower, designated associated facility or site to which the arbitration relates; or
 - (ii) another facility located at, on, in or under that broadcasting transmission tower, designated associated facility or site;
 - (e) the economically efficient operation of a broadcasting transmission tower, designated associated facility or site to which the arbitration relates;
 - (f) the value to a party to the dispute of:
 - (i) an extension of property that is or would be paid for by a person other than the party; or
 - (ii) an enhancement of capability, that is or would be paid for by a person other than the party;

- (g) whether the final determination will promote the objects set out in paragraphs 3 (1) (a), (aa), (b) and (ba) of the Act.
- (2) The ACCC may take into account any other matters that it considers relevant.

16 Termination of arbitration

- (1) The ACCC may terminate an arbitration, without making a final determination, if it considers that:
 - (a) the notification of the dispute was vexatious; or
 - (b) the subject matter of the dispute is trivial, misconceived or lacking in substance; or
 - (c) a party has not engaged in negotiations in relation to the dispute in good faith; or
 - (d) the access that is the subject of the dispute should continue to be given under an existing arrangement between the access seeker and the access provider.
- (2) In addition, if a dispute about access is about varying existing terms and conditions of access set out in a final determination, the ACCC may terminate the arbitration if it considers that there is no sufficient reason why the existing terms and conditions should not continue to have effect.

Division 3.4 Directions about negotiations

17 Direction to engage in negotiations

- (1) If the ACCC considers that it would be likely to facilitate negotiations relating to a dispute notified under regulation 7 if a person who is or was a party to the arbitration of the dispute were to be given a direction under this regulation, the Commission may, for the purposes of facilitating the negotiations, give the person a written procedural direction requiring the person to do, or refrain from doing, a specified act or thing relating to the conduct of those negotiations.

Regulation 17

- (2) In deciding whether to give a direction under subregulation (1), the ACCC must have regard to:
- (a) any guidelines in force under subsection 152CT (6) of the *Trade Practices Act 1974*, to the extent that they are applicable; and
 - (b) any other matters that the ACCC considers relevant.
- (3) A person must not contravene a direction under subregulation (1).
- Penalty: 10 penalty units.
- (4) Examples of procedural directions for subregulation (1) include:
- (a) a direction requiring the person to give relevant information to 1 or more other parties; and
 - (b) a direction requiring the person to conduct research or investigations to obtain relevant information; and
 - (c) a direction requiring the person not to impose unreasonable procedural conditions on the party's participation in negotiations; and
 - (d) a direction requiring the person to respond in writing to another party's proposal or request in relation to the time and place of a meeting; and
 - (e) a direction requiring the person, or a representative, to attend a mediation conference; and
 - (f) a direction requiring the person, or a representative, to attend a conciliation conference.
- (5) For paragraph (4) (c), if a party (the *first party*) imposes, as a condition on the first party's participation in negotiations, a requirement that the other party must not disclose to the ACCC any or all information, or the contents of any or all documents, provided in the course of negotiations, that condition is taken to be an unreasonable procedural condition on the first party's participation in those negotiations.
- (6) If an arbitration has been terminated, a reference in this regulation to a *party* is a reference to a former party.

Division 3.5 Arbitration procedure

18 Constitution of ACCC for conduct of arbitration

- (1) For the purposes of a particular arbitration, the ACCC is to be constituted by 1 or more members of the ACCC nominated in writing by the Chairperson of the ACCC.
- (2) A member of the ACCC is not disqualified from constituting the ACCC (alone or with other members) for the purposes of an arbitration of a dispute about a particular matter merely because the member has performed functions, or exercised powers, in relation to the matter or a related matter.

19 Member of ACCC presiding at an arbitration

- (1) If the Chairperson is a member of the ACCC in relation to a particular arbitration, the Chairperson must preside at the arbitration.
- (2) If the Chairperson is not a member of the ACCC in relation to a particular arbitration, the Chairperson must nominate a member of the ACCC to preside at the arbitration.

20 Reconstitution of ACCC: single member

- (1) This regulation applies if:
 - (a) 1 member of the ACCC constitutes the ACCC for the purposes of a particular arbitration; and
 - (b) the member:
 - (i) stops being a member of the ACCC; or
 - (ii) is not available for the purpose of the arbitration for any reason.
- (2) The Chairperson must direct that the ACCC is to be constituted for the purposes of finishing the arbitration by another member.
- (3) If the Chairperson gives a direction under subregulation (2), the ACCC as constituted in accordance with the direction:
 - (a) must continue and finish the arbitration; and

Regulation 21

- (b) may, for that purpose, have regard to any record of the proceedings of the arbitration made by the ACCC as previously constituted.

21 Reconstitution of ACCC: more than 1 member

- (1) This regulation applies if a member of the ACCC who is one of the members who constitute the ACCC, for the purposes of a particular arbitration:
 - (a) stops being a member of the ACCC; or
 - (b) is not available for the purpose of the arbitration for any reason.
- (2) The Chairperson must:
 - (a) direct that the ACCC is to be constituted for the purposes of finishing the arbitration by the remaining member or members; or
 - (b) direct that the ACCC is to be constituted for that purpose by the remaining member or members together with one or more other members of the ACCC.
- (3) If the Chairperson gives a direction under subregulation (2), the ACCC as constituted in accordance with the direction:
 - (a) must continue and finish the arbitration; and
 - (b) may, for that purpose, have regard to any record of the proceedings of the arbitration made by the ACCC as previously constituted.

22 Determination of questions

If the ACCC is constituted for an arbitration by 2 or more members, any question before the ACCC is to be decided:

- (a) unless paragraph (b) applies — according to the opinion of the majority of those members; or
- (b) if the members are evenly divided on the question — according to the opinion of the member who is presiding.

23 Particular powers of ACCC

- (1) The ACCC may do any of the following things for the purpose of an arbitration:
 - (a) conduct an arbitration hearing;
 - (b) give a direction in the course of, or for the purposes of, an arbitration hearing;
 - (c) hear and determine the arbitration in the absence of a person who has been summoned or served with a notice to appear;
 - (d) sit at any place;
 - (e) adjourn to any time and place;
 - (f) refer any matter to an expert, and accept the expert's report as evidence;
 - (g) generally give all such directions, and do all such things, as are necessary or expedient for the speedy hearing and determination of the dispute.
 - (2) The ACCC may give an oral or written order to a person not to divulge or communicate to anyone else specified information that was given to the person in the course of an arbitration unless the person has the ACCC's permission.
 - (3) A person must not contravene:
 - (a) a direction under paragraph (1) (b) or (g); or
 - (b) an order under subregulation (2).
- Penalty:
- for a natural person — 30 penalty units
 - for a company — 150 penalty units.
- (4) Subregulation (3) does not apply if the person has a reasonable excuse.

24 Hearing to be in private

- (1) Subject to subregulation (2), an arbitration hearing for a dispute is to be in private.
- (2) If the parties agree, an arbitration hearing, or part of an arbitration hearing, may be conducted in public.

Regulation 25

- (3) The member of the ACCC who is presiding at an arbitration hearing that is conducted in private:
 - (a) may give written directions as to the persons who may be present; and
 - (b) must have regard, in giving a direction, to the wishes of the parties and the need for commercial confidentiality.

25 Right to representation

A party may appear in person at an arbitration hearing, or be represented by someone else.

26 Procedure of ACCC

- (1) In an arbitration hearing, the ACCC:
 - (a) is not bound by technicalities, legal forms or rules of evidence; and
 - (b) must act as speedily as a proper consideration of the dispute allows, having regard to:
 - (i) the need to carefully and quickly inquire into and investigate the dispute; and
 - (ii) all matters affecting the merits, and fair settlement, of the dispute; and
 - (c) may inform itself of any matter relevant to the dispute in any way it thinks appropriate.
- (2) The ACCC may:
 - (a) determine the periods that are reasonably necessary for the fair and adequate presentation of the respective cases of the parties to a dispute; and
 - (b) require that the cases be presented within those periods.
- (3) The ACCC may:
 - (a) require evidence or argument to be presented in writing; and
 - (b) decide the matters on which it will hear oral evidence or argument.

Regulation 29

29 Failing to answer questions etc

- (1) A person appearing as a witness before the ACCC must not, without reasonable excuse:
- (a) refuse or fail to be sworn or to make an affirmation; or
 - (b) refuse or fail to answer a question that the person is required to answer by the ACCC; or
 - (c) refuse or fail to produce a document that he or she was required to produce by a summons under this Part served on him or her.

Penalty:

- for a natural person — 30 penalty units
 - for a company — 150 penalty units.
- (2) Subregulation (1) does not apply if the person has a reasonable excuse.

30 False or misleading evidence

- (1) A person appearing before the ACCC to give evidence under regulation 27 must not knowingly give evidence that is false or misleading in a material particular.

Penalty:

- for a natural person — 50 penalty units
 - for a company — 250 penalty units.
- (2) Subregulation (1) does not apply if the person has a reasonable excuse.

31 False or misleading document

- (1) A person must not, in complying with a summons under regulation 27, produce a document that, to the knowledge of the person, is false or misleading in a material particular.

Regulation 32

- (2) Subregulation (1) does not apply to a person who produces a document that, to the knowledge of the person, is false or misleading in a material particular if the document is accompanied by a written statement signed by the person:
- (a) stating that the document is, to the knowledge of the person, false or misleading in a material particular; and
 - (b) setting out, or referring to, the material particular in which the document is false or misleading.

Penalty:

- for a natural person — 50 penalty units
- for a company — 250 penalty units.

- (3) Subregulation (1) does not apply if the person has a reasonable excuse.

32 Intimidation etc

- (1) A person must not:
- (a) threaten, intimidate or coerce another person; or
 - (b) cause or procure damage, loss or disadvantage to another person;
- because that other person:
- (c) proposes to produce, or has produced, documents to the Commission; or
 - (d) proposes to appear or has appeared as a witness before the Commission.

Penalty:

- for a natural person — 50 penalty units
- for a company — 250 penalty units.

- (2) Subregulation (1) does not apply if the person has a reasonable excuse.

Regulation 33

33 Disturbing an arbitration hearing etc

- (1) A person must not, in relation to the arbitration of a dispute:
 - (a) insult or disturb a member of the ACCC in the exercise of the member's powers, or the performance of the member's functions or duties, as a member of the ACCC; or
 - (b) interrupt an arbitration hearing; or
 - (c) use insulting language towards a member of the ACCC exercising powers, or performing functions, as such a member; or
 - (d) create a disturbance, or take part in creating or continuing a disturbance, in a place where the ACCC is holding an arbitration hearing.

Penalty:

- for a natural person — 30 penalty units
- for a company — 150 penalty units.

- (2) Subregulation (1) does not apply if the person has a reasonable excuse.

34 Party may request ACCC to treat material as confidential

- (1) A party to an arbitration hearing may:
 - (a) inform the ACCC that, in the party's opinion, a specified part of a document contains confidential commercial information; and
 - (b) request the ACCC not to give a copy of that part to another party.
- (2) On receiving a request, the ACCC must:
 - (a) inform the other party or parties that the request has been made and of the general nature of the matters to which the relevant part of the document relates; and
 - (b) ask the other party or parties whether there is any objection to the ACCC complying with the request.
- (3) If there is an objection to the ACCC complying with a request, the party objecting may inform the ACCC of its objection and of the reasons for it.

Regulation 35

- (4) After considering:
- (a) a request; and
 - (b) any objection; and
 - (c) any further submissions that a party has made in relation to the request;

the ACCC may decide not to give to the other party or parties a copy of so much of the document as contains confidential commercial information that the ACCC thinks should not be so given.

35 Parties to pay costs of an arbitration

The ACCC may:

- (a) charge the parties to an arbitration for its costs in conducting the arbitration; and
- (b) apportion the charge between the parties.

Note

1. Notified in the *Commonwealth of Australia Gazette* on

6

2001.

20 September