

## **EXPLANATORY STATEMENT**

### **CARRIER LICENCE CONDITIONS (TELSTRA CORPORATION LIMITED) DECLARATION 1997 (AMENDMENT NO. 1 OF 1999)**

*Telecommunications Act 1997*

Issued by the Authority of the Minister for Communications, Information Technology  
and the Arts

#### Government policy

It is Government policy that there be provision of a reasonably equivalent mobile service in those analogue AMPS network coverage areas which are to cease operation by 31 December 2000 and where there is no reasonably alternative equivalent mobile service.

#### Regulatory framework

Subsection 63(3) of the *Telecommunications Act 1997* (the Act) provides that the Minister may, by written instrument, provide that specified conditions will be imposed on a carrier licence which may be granted to a specified person for a specified period. This enables conditions to be imposed on a particular licence which has been applied for, prior to its grant and which will come into force upon that grant. The original Carrier Licence Conditions (Telstra Corporation Limited) Declaration 1997, which the accompanying Declaration is amending, was made under subsection 63(3).

Subsection 63(5) of the Act provides that the Minister may, by written instrument, vary such licence conditions.

Telstra is currently subject to the Carrier Licence Conditions (Telstra Corporation Limited) Declaration 1997, published in the *Gazette* on 30 June 1997. It was amended by the Carrier Licence Conditions (Telstra Corporation Limited) Declaration 1997 (Amendment No. 1 of 1998) which was published in the *Gazette* on 4 March 1998.

Section 361 of the Act requires that on or after 1 January 2000 a person must not install or operate an analogue AMPS network. Paragraph 362(1)(c) of the Act permits a person to install or operate an analogue AMPS network in a particular area on or after 1 January 2000 where the Minister and the 'eligible mobile carriers' agree in writing. The eligible mobile carriers are Telstra, Optus Mobile Pty Ltd (Optus) and Vodafone Network Pty Ltd (Vodafone).

#### Agreement

The Government, Telstra, Optus and Vodafone are party to an agreement on the terms and conditions that allow Telstra to continue to operate its analogue AMPS network in particular areas for a certain period of time reasonably required by Telstra to deploy an 800 MHz digital cellular network which will meet Government's policy objective.

The objective of the agreement is to:

- (a) assist in meeting the government's policy objectives;
- (b) comply with the statutory arrangements for closure of the analogue AMPS network; and
- (c) assist in providing for continued availability of analogue AMPS services in regional areas until alternative reasonably equivalent mobile services are available.

### Declaration

The purpose of the accompanying Declaration is to give effect to the above mentioned agreement.

Details of the accompanying Declaration are as follows:

#### **1. Commencement**

Clause 1 provides for the accompanying Declaration to commence on gazettal.

#### **2. Revocation of former amending Declaration**

Clause 2 revokes the previously signed Carrier Licence Conditions (Telstra Corporation Limited) Declaration 1997 (Amendment No. 2 of 1998). That Declaration was signed on 1 December 1998 under the Minister's former title. To avoid doubt about the validity of the amendments to Telstra's licence conditions, that instrument is revoked and those amendments are remade under the accompanying Declaration reflecting the Minister's correct title.

The Carrier Licence Conditions (Telstra Corporation Limited) Declaration 1997 (Amendment No. 2 of 1998) was not Gazetted or tabled given the decision to remake the instrument.

#### **3. Variation**

Clause 3 states that the Carrier Licence Conditions (Telstra Corporation Limited) Declaration 1997 is to be varied as set out in the accompanying Declaration.

#### **4. Definitions**

Clause 4 includes key definitions for the accompanying Declaration.

#### **5. Replacement of AMPS network**

Clause 5 gives effect to the agreement between the Government, Telstra, Optus and Vodafone whereby Telstra is allowed to continue to operate an AMPS network in particular areas on or after 1 January 2000 under certain conditions.

## Framework

It has been agreed that by 31 December 2000 Telstra will have installed and will be operating a digital mobile telecommunications network in the 800 MHz frequency spectrum band (new subparagraph 15(a)(i)).

Telstra is to operate in **non-metropolitan areas** (other than the Territories of Christmas and Cocos (Keeling) Islands), one or more terrestrial digital mobile telecommunications networks which together provide coverage in non-metropolitan areas that is reasonably equivalent to that of the analogue AMPS network that was in place on 30 June 1998 (new subparagraph 15(a)(ii))

- it is intended that the assessment of what constitutes the AMPS network that was in place on 30 June 1998 will be primarily informed by the ACA's June 1998 report entitled "investigation of AMPS regional coverage under subsection 510(3) of the *Telecommunications Act 1997*"; and
- Telstra is not required to comply with the obligation under subparagraph 15(a)(ii) in relation to a particular non-metropolitan area if another carrier or carriage service provider operates a digital mobile telecommunications network that the Australian Communications Authority (ACA) has certified in writing provides reasonably equivalent services to the analogue AMPS services provided in that area (new subclause 15(3)).

Telstra is to cease operation of a particular non-metropolitan analogue AMPS site either within 90 days of commencing to supply an alternative digital mobile telecommunications service which has a coverage reasonably equivalent to the analogue AMPS services provided by that site or by 31 December 1999, whichever is the later (new paragraph 15(1)(b))

- for the purposes of new paragraph 15(1)(b), it is intended that the assessment of what constitutes 'reasonably equivalent coverage' will be primarily informed by the ACA's June 1998 report entitled "Investigation of AMPS regional coverage under subsection 510(3) of the *Telecommunications Act 1997*".

Under new subclause 15(12) of the accompanying Declaration, the ACA may make a written determination about what constitutes:

- coverage reasonably equivalent to that of the licensee's AMPS network that was in place on 30 June 1998;
- coverage reasonably equivalent to the AMPS services provided by a non-metropolitan AMPS site; or
- reasonably equivalent services to the AMPS services provided by a non-metropolitan AMPS site.

The ACA may make such a determination, with which Telstra must comply, after it has consulted with Telstra about doing so. The making of determinations may assist the licensee in the introduction of digital mobile telecommunications services in areas that are currently covered by the analogue AMPS network.

Subject to new subclauses 15(4) and (7) (discussed below) which impose time limits with which Telstra must comply, Telstra is not required to comply with an obligation under subclause 15(1) in relation to a particular non-metropolitan AMPS site if Telstra is unable to comply with that obligation in relation to that site because of circumstances beyond its reasonable control (new subclause 15(2)). Such circumstances might include extreme weather conditions, landslides, earthquakes or other acts of God, prolonged labour disputes or serious technical difficulties that could not have been reasonably foreseen.

#### Timeframe for analogue AMPS closure

Telstra must cease by 31 December 1999 analogue AMPS operation in all metropolitan AMPS sites and at least 130 non-metropolitan AMPS sites (new subclause 15(4)). The 130 non-metropolitan AMPS sites will be determined by Telstra in consultation with Optus and Vodafone.

Telstra must cease operation of 50 per cent of the remaining non-metropolitan analogue AMPS sites by 30 June 2000, and the remaining 50 per cent of those sites are to cease operation by 31 December 2000 (new subclause 15(7)).

Telstra is to notify the Minister for Communications, Information Technology and the Arts, Optus and Vodafone:

- by 31 December 1998 the number and locations of the non-metropolitan analogue AMPS sites that are to cease operation by 31 December 1999 (new subclause 15(5)), and should there be any revision to this number or those locations that revision is to be notified by 1 October 1999 (new subclause 15(6)); and
- by 31 December 1999 the number and locations of the non-metropolitan analogue AMPS sites that are to cease operation by 30 June 2000 (new subclause 15(8)), and should there be revision to this number or those locations that revision is to be notified by 1 April 2000 (new subclause 15(9)).

The accompanying Declaration also provides for another carrier or carriage service provider to give notice to Telstra of its intention to supply alternative digital mobile telecommunications services, which the ACA has certified in writing will be reasonably equivalent services to the AMPS services already provided by a particular non-metropolitan AMPS site. Where this is the case, Telstra is required to cease operation of that AMPS site from:

- the day the alternative services commence; or
- 90 days after receipt of the notice

whichever is the later (new subclause 15(10)).

However, should the other carrier or carriage service provider not give Telstra notice of its intention to supply alternative digital mobile telecommunications services, Telstra must cease operation of the AMPS site within 90 days of becoming aware that the alternative services have commenced and the other carrier or provider has received an ACA certification to the effect that the alternative services will be

reasonably equivalent services to the existing AMPS services provided by a non-metropolitan AMPS site (new subclause 15(11)).

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