

Commonwealth of Australia

Telecommunications Act 1997

Carrier Licence Conditions (Telstra Corporation Limited) Declaration 1997 (Amendment No. 1 of 1999)

I, RICHARD KENNETH ROBERT ALSTON, Minister for Communications, Information Technology and the Arts, make the following Declaration under subsection 63(5) of the *Telecommunications Act 1997*.

Dated 16 February 1999.

RICHARD ALSTON

Minister for Communications, Information Technology and the Arts

Commencement

1. This Declaration commences on gazettal.

Revocation of former amending Declaration

2. The Carrier Licence Conditions (Telstra Corporation Limited) Declaration 1997 (Amendment No. 2 of 1998) is revoked.

Variation

3. The Carrier Licence Conditions (Telstra Corporation Limited) Declaration 1997 is varied as set out in this Declaration.

[*Note:* The Carrier Licence Conditions (Telstra Corporation Limited) Declaration 1997 was 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. It was further amended by the Carrier Licence Conditions (Telstra Corporation Limited) Declaration 1997 (Amendment No. 2 of 1998).]

Clause 3 (Definitions)

4.1 Before the definition of “**allocated number**”, insert:

“ **‘800 MHz band’** means:

- (a) in a metropolitan area—the frequency bands:
 - (i) 825 MHz to 845 MHz; and
 - (ii) 870 MHz to 890 MHz; and
- (b) in a non-metropolitan area—the frequency bands:
 - (i) 825 MHz to 830 MHz; and
 - (ii) 835 MHz to 845 MHz; and
 - (iii) 870 MHz to 875 MHz; and
 - (iv) 880 MHz to 890 MHz.

[*Note:* Each frequency band includes all frequencies that are greater than the lower frequency, up to and including the higher frequency.]”.

4.2 After the definition of “**allocated number**”, insert:

“ **‘AMPS’** has the meaning given by section 358 of the Act;”.

4.3 After “**call conveyancing costs**”, insert:

“ **‘coverage’** means an area in which customers of a carrier or carriage service provider which supplies a mobile telecommunications service are ordinarily able to make or receive calls by means of that carrier’s or provider’s network;

[*Note:* It is intended that the coverage of a carrier’s or carriage service provider’s public mobile telecommunications service includes areas in which customers of that service are ordinarily able to make or receive calls by means of the carrier’s or provider’s network but, for reasons such as system or network failure or network congestion, are unable to do so from time to time.]”.

4.4 After the definition of “**location dependent carriage service**”, insert:

“ **‘metropolitan AMPS site’** means a base station, located in a metropolitan area, which is used as part of the AMPS network operated by the licensee;

‘metropolitan area’ means a designated area described in the Schedule to the Spectrum Re-allocation Declaration No. 2 of 1997;

‘non-metropolitan AMPS site’ means a base station, located in a non-metropolitan area, which is used as part of the AMPS network operated by the licensee;

‘non-metropolitan area’ means an area within Australia (other than the Territories of Christmas Island and Cocos (Keeling) Islands) that is not a metropolitan area;”.

4.5 After the definition of **“public payphone”**, insert:

“ ‘reasonably equivalent services’, in relation to the AMPS services provided by a non-metropolitan AMPS site, means services that are reasonably equivalent, having regard to:

- (a) the coverage of the services, including coverage in buildings;
- (b) the charges to customers for the services;
- (c) the functions the services are capable of performing; and
- (d) any other relevant matter;”.

4.6 After the definition of **“the Act”**, insert:

“ ‘the relevant parties’ means the Minister, Optus Mobile Pty Ltd (ACN 054 365 696) and Vodafone Network Pty Ltd (ACN 056 161 043);”.

Replacement of AMPS network (new clause)

5. After clause 14, insert:

“Replacement of AMPS network

15. (1) Subject to subclauses (2) and (3), the licensee must:

- (a) by 31 December 2000:
 - (i) install and operate an 800 MHz band digital mobile

telecommunications network; and

- (ii) ensure that it operates in non-metropolitan areas one or more terrestrial digital mobile telecommunications networks (“**the equivalent networks**”) which together provide coverage in non-metropolitan areas that is reasonably equivalent to that of its AMPS network that was in place on 30 June 1998; and

(b) cease operation of a particular non-metropolitan AMPS site:

- (i) within 90 days of commencing to supply an alternative digital mobile telecommunications service which has a coverage reasonably equivalent to the AMPS services provided by that site; or
- (ii) by 31 December 1999;

whichever is later.

[*Note:* For the purposes of subclause 15(1), is intended that any assessment of what constitutes the AMPS network that was in place on 30 June 1998 and what constitutes reasonably equivalent coverage will be primarily informed by the ACA’s Report “Investigation of AMPS regional coverage under subsection 510(3) of the *Telecommunications Act 1997*” dated June 1998.]

(2) Subject to subclauses (4) and (7), the licensee is not required to comply with an obligation under subclause (1) in relation to a particular non-metropolitan AMPS site if the licensee is unable to comply with that obligation in relation to that site because of circumstances beyond its reasonable control.

(3) The licensee is not required to comply with subparagraph (1)(a)(ii) in relation to a particular non-metropolitan area in which another carrier or carriage service provider operates a digital mobile telecommunications network that the ACA has certified in writing provides reasonably equivalent services to the AMPS services provided by a non-metropolitan AMPS site.

(4) By 31 December 1999, the licensee must cease operation of:

- (a) all metropolitan AMPS sites; and

- (b) at least 130 non-metropolitan AMPS sites, which sites are to be determined by the licensee.

(5) By 31 December 1998, the licensee must notify the relevant parties of the number and locations of the non-metropolitan AMPS sites that are to cease operation by 31 December 1999.

(6) By 1 October 1999, the licensee must notify the relevant parties of any revision of this number and those locations.

(7) The licensee must ensure that:

- (a) the first 50% of non-metropolitan AMPS sites remaining open after 31 December 1999 cease operation by 30 June 2000;
and

- (b) the remaining 50% of those sites cease operation by 31 December 2000.

(8) By 31 December 1999, the licensee must notify the relevant parties of the number and locations of those non-metropolitan AMPS sites that are to cease operation by 30 June 2000.

(9) By 1 April 2000, the licensee must notify the relevant parties of any revision of this number and those locations.

(10) If the licensee receives notice from another carrier or carriage service provider 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 provided by a particular non-metropolitan AMPS site, the licensee must cease operation of that site from either:

- (a) the day alternative services which the ACA has certified in writing will be reasonably equivalent to the AMPS services commence; or

- (b) 90 days after receipt of the notice;

whichever is later.

(11) If another carrier or carriage service provider commences to supply alternative digital mobile telecommunications services which the ACA has certified in writing will be reasonably equivalent services to the AMPS services provided by a non-metropolitan AMPS site without the licensee having received a notice referred to in subclause (10), the licensee 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.

(12) The licensee must comply with any written determination made by the ACA, following consultation with the licensee, about what constitutes:

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