

Commonwealth of Australia

Telecommunications Act 1997

**Rules of Conduct about dealings with international
telecommunications operators No. 1 of 1997**

I, RICHARD KENNETH ROBERT ALSTON, Minister for Communications and the Arts, make the following Rules of Conduct under subsection 367(2) of the *Telecommunications Act 1997*.

Dated 18 June 1997.

RICHARD ALSTON
Minister for Communications and the Arts

Citation

1. These Rules of Conduct may be cited as the Rules of Conduct about dealings with international telecommunications operators No. 1 of 1997.

Commencement

2. These Rules of Conduct commence on 1 July 1997.

Definitions

3. In these Rules of Conduct:

“agreement” means a contract, agreement, arrangement or understanding that is made in or outside Australia;

“international service” means:

- (a) the supply of a carriage service specified in paragraph 16(1)(b) or (c) of the Act; or
- (b) the supply of goods or services for use in connection with the supply of a carriage service specified in paragraph 16(1)(b) or (c) of the Act; or

- (c) the installation of, maintenance of, operation of, or provision of access to:

- (i) a telecommunications network; or
 - (ii) a facility;

where the network or facility is used to supply a carriage service specified in paragraph 16(1)(b) or (c) of the Act.

“operator” means an international telecommunications operator;

“the Act” means the *Telecommunications Act 1997*.

Objects

- 4. The objects of these Rules of Conduct are:
 - (a) to ensure that carriers and carriage service providers use all reasonable endeavours, in their dealings with operators, to prevent, mitigate or remedy unacceptable conduct engaged in by the operators; and
 - (b) to enable the ACCC to take appropriate action if operators engage in unacceptable conduct or carriers or carriage service providers contravene these Rules of Conduct.

Preventing, mitigating or remedying unacceptable conduct by an operator

5. In its dealings with an operator, a carrier or a carriage service provider must use all reasonable endeavours to prevent, mitigate or remedy unacceptable conduct engaged in by the operator.

Agreement in relation to charges or telecommunications traffic

6. (1) This clause applies to a carrier or carriage service provider that enters into an agreement with an operator about:

- (a) charges in connection with an international service supplied by the carrier or provider to the operator or by the operator to the carrier or provider; or
- (b) telecommunications traffic passed from the carrier or provider to the operator or from the operator to the carrier or provider.

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(2) If the ACCC asks the carrier or provider for information about the agreement, the carrier or provider must provide the information:

- (a) in the form (if any) that the ACCC requires in its request; and
- (b) within the period (if any) referred to by the ACCC in its request;

but only if:

- (c) the request relates to an investigation by the ACCC of a contravention of these Rules of Conduct; and
- (d) the information requested is relevant to that contravention.

(3) Subject to clause 7, the ACCC must use the information only for the purpose of investigating a contravention by the carrier or provider of these Rules of Conduct.

Authorisation for ACCC to make information available to the public etc.

7. The ACCC may make information available to:

- (a) the public; or
- (b) one or more carriers; or
- (c) one or more carriage service providers;

if, in the opinion of the ACCC, the disclosure of the information:

- (d) would promote the fair and efficient operation of a market; or
- (e) would otherwise be in the national interest.

Authorisation for ACCC to make certain written directions

8. The ACCC may direct a carrier or a carriage service provider, in writing:

- (a) to make an agreement with an operator on specific charges for any international service dealt with under the agreement; or
- (b) to make an agreement with an operator in relation to allocating all or part of the operator's telecommunications traffic to carriers or carriage service providers in a particular manner; or

- (c) to act in its dealings with an operator in a particular manner to prevent, mitigate or remedy unacceptable conduct engaged in by the operator.

Compliance with ACCC directions

9. (1) This clause applies to a carrier or carriage service provider if the ACCC:

- (a) investigates a contravention of these Rules of Conduct by the carrier or provider; and
 - (b) considers that dealings between the carrier or provider and an operator will have the effect of allowing the operator to engage in unacceptable conduct; and
 - (c) gives the carrier or provider a direction under clause 8 for the purpose of preventing, mitigating or remedying the unacceptable conduct.
- (2)** The carrier or provider must, as far as practicable:
- (a) make an agreement with the operator; or
 - (b) renegotiate its agreement with the operator; or
 - (c) change the manner in which it deals with the operator;

to comply with the ACCC's direction.

Authorisation for ACCC to make certain written determinations

10. The ACCC may make a written determination of a legislative character where the determination imposes requirements, prohibitions or restrictions on either or both of the following:

- (a) carriers;
- (b) carriage service providers;

with a view to preventing, mitigating or remedying unacceptable conduct engaged in by operators.