

TRADE PRACTICES ACT 1974

Variation of Determination made under subsection 152AS(1) by the Australian Competition and Consumer Commission

Variation of Class exemption from standard access obligations in respect of PSTN OA

1. Title

This Determination may be cited as Class Exemption (Variation) Determination No. 3 of 2009.

2. Commencement

This Determination comes into effect on the date this Determination is made.

3. Variation

Class Exemption Determination No. 3 of 2008 is hereby varied as set out below.

- (1) Paragraph 2(2) is deleted and the following paragraph is substituted in its place:

“This Determination will expire

(a) five years after 9 September 2009; or

(b) upon revocation of either the PSTN OA Declaration or the ULLS Declaration, whichever first occurs.”

- (2) The following definitions are to be inserted into paragraph 3(2):

Exemption ESA List means the list of Exemption ESAs published by the Commission on its website pursuant to paragraph 6.1(b) of the Australian Competition Tribunal’s 2009 PSTN OA Metropolitan Individual Exemption Order dated 9 September 2009.

International Special Service Code means a special services number (access code) in Part 2 of Schedule 4 of the *Telecommunications Numbering Plan 1997* (described in clause 3.18 of that instrument) as amended from time to time.

VPN Access Code means a special services number (access code) in Part 4 of Schedule 4 to the *Telecommunications Numbering Plan 1997* (described in clause 3.20 of that instrument) as amended from time to time.

- (3) Paragraph 6 is deleted and the following paragraphs are substituted in its place:

“Exemption: CBD areas

6. Each member of the Specified Class of Carrier and each member of the Specified Class of Carriage Service Provider is exempt from the Standard Access Obligations in respect of the supply of PSTN OA within the Attachment A ESAs, except where PSTN OA is being provided in conjunction with a call dialled using a Special Services Global Code or a Carrier or Carriage Service Provider Specific Access Code.

Exemption: Metropolitan areas

7. Subject to paragraphs 8 and 9, each member of the Specified Class of Carrier and each member of the Specified Class of Carriage Service Provider is exempt from the Standard Access Obligations in respect of the supply of PSTN OA within those ESAs included in the list of Exemption ESAs published by the Commission on its website pursuant to paragraph 6.1(b) of the Australian Competition Tribunal’s 2009 PSTN OA Metropolitan Individual Exemption Order dated 9 September 2009.

8. The Exemption does not have effect where PSTN OA is being provided in conjunction with a call dialled using a Special Services Global Code or a Carrier or Carriage Service Provider Specific Access Code.

9. The Exemption does not have effect with respect to a particular ESA until 6 months after the publication date of the Exemption ESA List on which that ESA first appears.”

- (4) Table 1 (“Metropolitan ESAs”) in Attachment A is deleted.

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Graeme Julian Samuel
Chairman
Australian Competition and Consumer Commission

Dated this 18 day of November 2009