

# Commonwealth of Australia

*Telecommunications (Consumer Protection and Service Standards) Act 1999*

## **Telecommunications (Participating Persons) Determination 2011 (No. 1)**

I, STEPHEN MICHAEL CONROY, Minister for Broadband, Communications and the Digital Economy, make the following Determination under paragraph 20A(2)(b) of the *Telecommunications (Consumer Protection and Service Standards) Act 1999*.

Dated 4 July 2011

STEPHEN CONROY  
Minister for Broadband, Communications and the Digital Economy

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### **1 Name of Determination**

This Determination is the *Telecommunications (Participating Persons) Determination 2011 (No. 1)*.

### **2 Commencement**

This Determination commences on the day after it is registered on the Federal Register of Legislative Instruments.

### **3 Repealed**

The *National Relay Service (Participating Persons) Determination 2005 (No. 1)* is repealed.

### **4 Definitions**

(1) In this Determination:

**ACMA** means the Australian Communications and Media Authority.

**Act** means the *Telecommunications (Consumer Protection and Service Standards) Act 1999*.

**Eligible Revenue Determination** means the *Telecommunications Universal Service Obligation (Eligible Revenue) Determination 2003* as in force from time to time.

***specified timeframe***, in relation to an eligible revenue period, means the period of time within which a participating person is required to submit an eligible revenue return for that period, as specified by the ACMA under paragraph 20(2)(a) of the Act.

***ultimate Australian parent entity*** has the same meaning as in the Eligible Revenue Determination.

Note: The terms ***eligible revenue period*** and ***participating person*** have the same meaning given by section 5 of the Act.

- (2) For the purposes of this Determination:
- (a) a person's ***eligible revenue*** for an eligible revenue period is the amount that would be that person's ***eligible revenue*** under the Act, if that person were a participating person;
  - (b) a person's ***gross telecommunications sales revenue*** for an eligible revenue period is the amount that would be that person's ***gross telecommunications sales revenue*** under the Eligible Revenue Determination, if that person were a participating person; and
  - (c) a person's ***initial sales revenue*** for an eligible revenue period is the amount that would be that person's ***initial sales revenue*** under the Eligible Revenue Determination, if that person were a participating person.
- (3) A statutory declaration given by a person is an ***eligible statutory declaration*** if it is made:
- (a) by:
    - (i) if the person is a company—a director or company secretary of the company, or
    - (ii) if the person is a natural person—the person; and
  - (b) in accordance with the *Statutory Declarations Act 1959*.
- (4) A person is a ***USO non-participating person*** for an eligible revenue period, subject to subsection 4(5), if:
- (a) both:
    - (i) the person's initial sales revenue for the eligible revenue period is less than \$25 million; and
    - (ii) within the specified timeframe for the eligible revenue period, the person provides to the ACMA an eligible statutory declaration stating that the person's initial sales revenue for the eligible revenue period was less than \$25 million; or
  - (b) both:
    - (i) the person's gross telecommunications sales revenue for the eligible revenue period is less than \$25 million; and
    - (ii) within the specified timeframe for the eligible revenue period, the person provides to the ACMA an eligible statutory declaration stating that the person's gross telecommunications

sale revenue for the eligible revenue period was less than \$25 million; or

(c) both:

- (i) the person's eligible revenue for the eligible revenue period is less than \$25 million; and
- (ii) within the specified timeframe for the eligible revenue period, the person provides to the ACMA an eligible statutory declaration stating that the person's eligible revenue for the eligible revenue period was less than \$25 million.

(5) If a person has the same ultimate Australian parent entity as 1 or more other carriers (or carriage service providers, if a determination under paragraph 20A(1)(b) of the Act is in force), then, for the purposes of calculating the following:

- (a) initial sales revenue for the purposes of paragraph 4(4)(a) above;
- (b) gross telecommunications sales revenue for the purposes of paragraph 4(4)(b) above;
- (c) eligible revenue for the purposes of paragraph 4(4)(c) above;

each carrier (or carriage service provider as applicable) must make the relevant calculations on a group basis, accounting for revenue and deductions as a whole.

## **5 Determination**

If a person is a USO non-participating person for an eligible revenue period, the person is exempt from section 20A of the Act for that eligible revenue period.