**EXPLANATORY STATEMENT**

**Issued by the Australian Communications and Media Authority**

*Telecommunications (Approved Auditors and Auditing Requirements) Determination Variation 2011 (No 1)*

*Telecommunications Act 1997*

**Purpose**

The purpose of the *Telecommunications (Approved Auditors and Auditing Requirements) Determination Variation 2011 (No 1)* is to amend the *Telecommunications (Approved Auditors and Auditing Requirements) Determination 2006* (the Determination) so that it prescribes approved auditing requirements that are appropriate to their purpose under, and consistent with the terms of, the *Telecommunications Act 1997* (the Act).

**Legislative Basis**

Telecommunications industry bodies and associations are eligible to apply for reimbursement of the costs of developing consumer-related industry codes in accordance with Division 6A in Part 6 of the Act.

Industry bodies or associations must first make a written application for a declaration of eligibility for reimbursement, and, after submission of the completed code, may submit a claim for reimbursement, by submitting a written statement itemising the costs incurred in developing the code. The application and the statement of costs are required to be accompanied by a written declaration by an approved auditor that he or she is of the opinion that the statement of costs complies with the approved auditing requirements. Under subsection 136C(5) of the Act, the Australian Communications and Media Authority (ACMA) has powers to make a determination specifying the persons who are approved auditors, and the requirements that are to be the approved auditing requirements.

**Consultation**

The draft instrument was placed on the ACMA website for a period of six weeks, during which members of the public were invited to comment on the draft instrument. In addition, the draft instrument was sent to Communications Alliance, The Institute of Chartered Accountants, CPA Australia, The National Institute of Accountants, The Australian Accounting Standards Board, Department of Broadband, Communication and the Digital Economy, and Internet Industry Association and those organisations were allowed six weeks to provide comments to the ACMA on the draft instrument. The ACMA has taken into account the comments received on the draft instrument.

**Operation**

The instrument varies section 6 of the Determination to specify new requirements for a statement of costs submitted under section 136C(1)(e)(i) of the Act. An approved auditor must make a written declaration that he or she is of the opinion that such a statement of costs complies with the requirements. The previous requirements were not appropriate for this purpose. The new requirements are practical and consistent with their statutory purpose.

**NOTES ON THE DRAFT INSTRUMENT**

**Section 1 Name of instrument**

Section 1 provides that the name of the instrument is the *Telecommunications (Approved Auditors and Auditing Requirements) Determination Variation 2011 (No 1)*.

**Section 2 Commencement**

Section 2 provides that the instrument commences on the day after it is registered on the Federal Register of Legislative Instruments.

**Section 3 Variation of *Telecommunications (Approved Auditors and Auditing Requirements) Determination 2006***

Section 3 provides that variations to the Determination are effected by Schedule 1 of the instrument.

**Schedule 1 Variations**

**[1] Section 3**

This variation inserts a new definitions section, which adds definitions of the terms ‘refundable cost’ and ‘statement of costs’, consistent with their meaning in the Act.

**[2] Section 4**

This variation inserts “the” before ACMA, in order to be consistent with the usage in the Act.

**[3] Section 6**

This variation specifies a new set of approved auditing requirements. The variation inserts requirements for a statement of costs to include only refundable costs, and for the costs included to be accurate and supported by relevant documentary evidence demonstrating that the costs have been incurred.