EXPLANATORY STATEMENT

Issued by the authority of the Minister for Broadband, Communications

and the Digital Economy

# Telecommunications Universal Service Management Agency Act 2012

Proclamation

# Subsection 2(1) of the Telecommunications Universal Service Management Agency Act 2012 (the Act) provides that sections 3 to 125 of the Act commence on a single day to be fixed by Proclamation.

The Act received the Royal Assent on 16 April 2012.Sections 1 and 2 of the Act commenced on that day.

The purpose of the Proclamation is to fix 1 July 2012 as the date on which sections 3 to 125 of the Act commence.

Under subsection 2(1) of the Act, the date of proclamation in respect of sections 3 to 125 must not occur before the latest of the following events:

* when a structural separation undertaking given by Telstra Corporation Limited (Telstra) comes into force;
* if Telstra’s structural separation undertaking requires Telstra to give the Australian Competition and Consumer Commission (ACCC) a draft migration plan, when the ACCC approves that draft migration plan;
* if the extended spectrum regime applies to Telstra, when an undertaking given by Telstra about hybrid fibre-coaxial networks comes into force (unless the Minister has exempted Telstra from that undertaking); and
* if the extended spectrum regime applies to Telstra, when an undertaking given by Telstra about subscription television broadcasting licences comes into force (unless the Minister has exempted Telstra from that undertaking).

Under subsection 2(1) of the Act, if sections 3 to 125 of the Act do not commence within the period of 6 months beginning on the latest of the events set out above, the provisions will commence on the day after the end of that period.

Telstra’s structural separation undertaking came into force on 6 March 2012. Pursuant to that undertaking, the ACCC approved the draft migration plan on the same day. On that day, the Minister made a declaration under subsections 577J(3) and (5) of the *Telecommunications Act 1997* that Telstra is exempt from the requirement to have undertakings about hybrid fibre-coaxial networks and subscription television broadcasting licences under, respectively, sections 577C and 577E of that Act.

As a result of these actions, each of the events listed under subsection 2(1) of the Act, which must occur before the day specified in the Proclamation, occurred on 6 March 2012.

The effect of the Proclamation is that, on 1 July 2012, the Telecommunications Universal Service Management Agency (TUSMA) will be established as the statutory agency that will have the responsibility for the effective implementation and administration of service agreements or grants that deliver universal service and other public policy telecommunications outcomes.

As a result of the Proclamation, the substantive provisions of the *Telecommunications Legislation Amendment (Universal Service Reform) Act 2012* (the Reform Act) and the *Telecommunications (Industry Levy) Act 2012* (the Levy Act) will also commence on 1 July 2012. The Reform Act will introduce a framework under which the universal service regime established by the *Telecommunications (Consumer Protection and Service Standards) Act 1999* (the Consumer Protection Act) will be phased out and replaced by alternative contractual arrangements under the Act.

From 1 July 2012, the Reform Act will also amend the Consumer Protection Act and other telecommunications legislation to phase out the universal service obligation (USO) and National Relay Service (NRS) levy regimes. In their place, the Levy Act will impose a consolidated levy that will provide for industry participants to contribute to the costs of TUSMA that are not met by dedicated Budget funding. As the current USO and NRS levies are based on the assessment, collection and recovery of levy in respect of financial year periods, the commencement date of 1 July 2012 will enable an efficient transition to the new consolidated levy arrangements.

The Proclamation is a legislative instrument for the purposes of the *Legislative Instruments Act 2003* (the LI Act). As the Proclamation provides solely for the commencement of sections 3 to 125 of the Act, the Proclamation is not subject to Parliamentary disallowance under section 42 of the LI Act.

Regulation Impact Statement

The Office of Best Practice Regulation (OBPR) was consulted about the making of the Proclamation. The OBPR considered that no regulatory impact statement is required.