



Telecommunications (Eligible Revenue) Determination 2015

The Australian Communications and Media Authority makes this determination under subsections 43(5) and 45(1) of the *Telecommunications (Consumer Protection and Service Standards) Act 1999*.

Dated: 11th June 2015

Chris Chapman
[signed]
Member

Richard Bean
[signed]
Member/~~General Manager~~

Australian Communications and Media Authority

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Part 1 — Preliminary

1 Name of determination

This determination is the *Telecommunications (Eligible Revenue) Determination 2015*.

2 Commencement

This determination commences on the day after it is registered.

Note: All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See <http://www.comlaw.gov.au>.

3 Authority

This determination is made under subsections 43(1) and 45(1) of the *Telecommunications (Consumer Protection and Service Standards) Act 1999*.

4 Application of determination

This determination applies to:

- (a) the 2014-15 eligible revenue period; and
- (b) each later eligible revenue period.

5 Definitions

In this determination:

accounting on a group basis, for a participating person: see section 11.

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

Australia has the meaning given by the Telecommunications Act.

body means:

- (a) a legal arrangement; or
- (b) an administrative arrangement; or
- (c) a fiduciary arrangement; or
- (d) an organisational structure; or
- (e) another party (including a person);
that has the capacity to allocate scarce resources in order to achieve objectives, whether within or outside Australia.

boundary of a telecommunications network has the meaning given by section 22 of the Telecommunications Act.

bundled revenue: see section 13.

carriage service provider has the meaning given by the Telecommunications Act.

carrier has the meaning given by the Telecommunications Act.

carrier licence means a licence granted under section 56 of the Telecommunications Act.

company interests has the meaning given by the *Broadcasting Services Act 1992*.

consolidated related party:

- (a) of a participating person means an entity:
 - (i) that is not the participating person; and
 - (ii) the revenue of which is included in the annual consolidated financial statements of the participating person's ultimate Australian parent entity; and
- (b) of a non-participating person means an entity:
 - (i) that is not the non-participating person; and
 - (ii) the revenue of which is included in the annual consolidated financial statements of the non-participating person's ultimate Australian parent entity.

content service has the meaning given by the Telecommunications Act.

customer equipment has the meaning given by the Telecommunications Act.

declared related party:

- (a) of a participating person: see section 6; and
- (b) of a non-participating person: see section 7.

declared related party factor for a declared related party: see section 8.

entity means anything defined as an entity in the accounting standards, made under section 334 of the *Corporations Act 2001*, as in force from time to time.

exempt base station has the meaning given by subsection 34(2) of the Telecommunications Act.

gross telecommunications sales revenue: see Part 3.

initial sales revenue: see section 15.

inter-person input payment: see section 10.

listed carriage service has the meaning given by the Telecommunications Act.

net telecommunications sales revenue: see section 34.

non-participating person means a person who is not required to give the ACMA an eligible revenue return under section 43 of the Act, only because of a determination made under subsection 44(2) of the Act.

non-telecommunications sales revenue: see section 9.

participating carriage service provider means a carriage service provider in relation to whom a determination under paragraph 44(1)(b) of the Act is in force.

subscription broadcasting service has the meaning given by the *Broadcasting Services Act 1992*.

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Telecommunications Act means the *Telecommunications Act 1997*.

telecommunications industry has the meaning given by the Telecommunications Act.

telecommunications sales revenue:

- (a) means sales revenue earned from an activity in the telecommunications industry; but
- (b) does not include:
 - (i) an amount payable under a contract entered into under section 14 of the Act; or
 - (ii) a grant under section 14 of the Act.

ultimate Australian parent entity, of a participating person or a non-participating person, means an entity described in that way:

- (a) under accounting methods commonly used in Australia; and
- (b) in the financial statements in which the revenue of the participating person or non-participating person is reported.

Note: Several other words and expressions used in this determination have the meaning given by the Act, including:

- (a) eligible revenue;
- (b) eligible revenue period; and
- (c) participating person.

6 **Meaning of declared related party—participating person**

- (1) An entity is a **declared related party** of a participating person for the whole of an eligible revenue period if the entity:
 - (a) is not:
 - (i) a participating person; or
 - (ii) a consolidated related party of a participating person; and
 - (b) is owned, at any time during the eligible revenue period, by a body that owns the participating person at any time during the eligible revenue period; and
 - (c) has telecommunications sales revenue in Australia at any time during the eligible revenue period.
- (2) An entity is a **declared related party** of a participating person for any part of an eligible revenue period during which the entity:
 - (a) is not:
 - (i) a carrier; or
 - (ii) a consolidated related party of a participating person; or
 - (iii) a participating carriage service provider; and
 - (b) is owned by a body that owns the participating person at any time during the eligible revenue period; and
 - (c) has telecommunications sales revenue in Australia.
- (3) For subsections (1) and (2):
 - (a) a body owns a declared related party or a participating person if the body has company interests of more than 49% in the declared related party or participating person; and

- (b) company interests may be traced in the same way as company interests may be traced for Part 4 of Schedule 1 to the *Broadcasting Services Act 1992*.

7 **Meaning of declared related party—non-participating person**

- (1) An entity is a **declared related party** of a non-participating person for the whole of an eligible revenue period if the entity:
 - (a) is not:
 - (i) a participating person; or
 - (ii) a consolidated related party of a participating person or a non-participating person; and
 - (b) is owned, at any time during the eligible revenue period, by a body that owns the non-participating person at any time during the eligible revenue period; and
 - (c) has telecommunications sales revenue in Australia at any time during the eligible revenue period.
- (2) An entity is a **declared related party** of a non-participating person for any part of an eligible revenue period during which the entity:
 - (a) is not:
 - (i) a carrier; or
 - (ii) a consolidated related party of a participating person or a non-participating person; or
 - (iii) a participating carriage service provider; and
 - (b) is owned by a body that owns the non-participating person at any time during the eligible revenue period; and
 - (c) has telecommunications sales revenue in Australia.
- (3) For subsections (1) and (2):
 - (a) a body owns a declared related party or a non-participating person if the body has company interests of more than 49% in the declared related party or non-participating person; and
 - (b) company interests may be traced in the same way as company interests may be traced for Part 4 of Schedule 1 to the *Broadcasting Services Act 1992*.

8 **Meaning of declared related party factor**

- (1) The **declared related party factor**, for a declared related party of a participating person, is worked out using the formula:

participating person interest \times party interest

where:

participating person interest is the proportion of the participating person that is owned by the body mentioned in paragraph 6(1)(b) or 6(2)(b) or, if there is more than one body, the body that has the greatest company interest in the participating person.

party interest is the proportion of the declared related party that is owned by the body mentioned in paragraph 6(1)(b) or 6(2)(b) or, if there is more than one

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body, the body that has the greatest company interest in the declared related party.

- (2) The ***declared related party factor***, for a declared related party of a non-participating person, is worked out using the formula:

non-participating person interest \times party interest

where:

non-participating person interest is the proportion of the non-participating person that is owned by the body mentioned in paragraph 7(1)(b) or 7(2)(b) or, if there is more than one body, the body that has the greatest company interest in the non-participating person.

party interest is the proportion of the declared related party that is owned by the body mentioned in paragraph 7(1)(b) or 7(2)(b) or, if there is more than one body, the body that has the greatest company interest in the declared related party.

9 **Meaning of *non-telecommunications sales revenue***

- (1) An amount of revenue is ***non-telecommunications sales revenue*** if the revenue is earned from an activity outside the telecommunications industry.

Note: Examples of non-telecommunications sales revenue include:

- (a) revenue from providing electricity, gas or water connections; and
- (b) revenue from selling electricity, gas or water.

- (2) The ACMA may, in writing, declare that the following is non-telecommunications sales revenue:
- (a) a specified amount;
 - (b) the value of a benefit or service.
- (3) The declaration must also state:
- (a) which participating person, or declared related party or consolidated related party of the participating person, the declaration applies to; and
 - (b) if the declaration relates to paragraph (2)(b)—how the ACMA worked out the value of a benefit or service declared to be non-telecommunications sales revenue.
- (4) The declaration may apply to more than one person or party mentioned in paragraph (3)(a) but not generally to all persons or parties.

10 **Meaning of *inter-person input payment***

- (1) An amount is an ***inter-person input payment*** if:
- (a) the amount is paid or payable by a participating person (the first participating person) for an act done by:
 - (i) another participating person (the second participating person) or a non-participating person; or
 - (ii) a consolidated related party or a declared related party of the participating person or non-participating person; and

- (b) the act allows the first participating person, or a consolidated related party or a declared related party of the first participating person, to provide a listed carriage service; and
 - (c) either:
 - (i) the second participating person is required to include the amount in the person's gross telecommunications sales revenue, and does so without deducting the amount under any of sections 23 to 28, 30 or 33; or
 - (ii) the non-participating person would have been required to include the amount in the person's gross telecommunications sales revenue, without deducting the amount under any of sections 23 to 28, 30 or 33, had the person been a participating person.
- (2) An amount is also an *inter-person input payment* if:
- (a) the amount is paid or payable by a consolidated related party or a declared related party of a participating person (the first participating person) for an act done by:
 - (i) another participating person (the second participating person) or a non-participating person; or
 - (ii) a consolidated related party or a declared related party of the second participating person or non-participating person; and
 - (b) the act allows the consolidated related party or declared related party that incurred the amount, or the first participating person, to provide a listed carriage service; and
 - (c) either:
 - (i) the second participating person is required to include the amount in the person's gross telecommunications sales revenue, and does so without deducting the amount under any of sections 23 to 28, 30 or 33; or
 - (ii) the non-participating person would have been required to include the amount in the person's gross telecommunications sales revenue, without deducting the amount under any of sections 23 to 28, 30 or 33, had the person been a participating person.
- Note: Examples of *inter-person input payments* include:
- (a) a payment for interconnection; and
 - (b) a payment for a carriage or other service for which access has been declared under Part XIC of the *Competition and Consumer Act 2010*; and
 - (c) a payment for a carriage or other service bought on a wholesale basis; and
 - (d) a payment for a retail carriage or other service that a participating person buys from another participating person for the purpose of resale.
- (3) The ACMA may, in writing, declare that a specified amount is an inter-person input payment of a participating person, or declared related party or consolidated related party of the participating person, who is specified in the declaration.
- (4) The declaration may apply to more than one person or party mentioned in subsection (3) but not generally to all persons or parties.

Part 2 — Accounting concepts

11 Accounting on a group basis

- (1) This section applies if:
 - (a) a participating person has the same ultimate Australian parent entity as one or more other participating persons; and
 - (b) the ultimate Australian parent entity's annual consolidated financial statements include the sales revenue of the participating person, whether or not the statements include any revenue of entities other than the other participating persons mentioned in paragraph (a).
- (2) The participating person may make all of the calculations required by this determination in the participating person's own right, identifying and accounting for the participating person's own revenue and deductions, and those of any consolidated related parties and declared related parties of the participating person, in accordance with this determination.
- (3) As an alternative to subsection (2), 2 or more participating persons with the same ultimate Australian parent entity may make all of the calculations required by Parts 3 and 4 on a group basis, identifying and accounting for revenue and deductions as a whole.

Note: See section 36 for the calculation of net telecommunications sales revenue for participating persons within a group.
- (4) In this determination, the use of the accounting arrangements in subsection (3) is *accounting on a group basis*.

12 Sales revenue

- (1) In this determination, the sales revenue of a participating person, or of a consolidated related party or declared related party of a participating person, for an eligible revenue period is to be worked out using the sources mentioned in subsections (2) and (4) to identify the amount of revenue for the period during the eligible revenue period (the *relevant period*), in which the participating person:
 - (a) holds a carrier licence; or
 - (b) is a participating carriage service provider.
- (2) For subsection (1), the *sources* are:
 - (a) if the entity's sales revenue is included in the annual consolidated financial statements of an ultimate Australian parent entity:
 - (i) if the most recent financial statements of the ultimate Australian parent entity for a period ending on or before the end of the eligible revenue period are required to be audited under the *Corporations Act 2001* or any other law of the Commonwealth, a State or a Territory—those audited financial statements; and
 - (ii) in any other case—the most recent financial statements of the ultimate Australian parent entity for a period ending on or before the end of the eligible revenue period; or

- (b) if the entity's sales revenue is not included in the annual consolidated financial statements of an ultimate Australian parent entity:
 - (i) if the most recent financial statements of the participating person that include the participating person's sales revenue for a period ending on or before the end of the eligible revenue period are required to be audited under the *Corporations Act 2001* or any other law of the Commonwealth, a State or a Territory—those audited financial statements; and
 - (ii) in any other case—the most recent financial statements of the participating person that include the participating person's sales revenue for a period ending on or before the end of the eligible revenue period; or
 - (c) for a declared related party:
 - (i) if the most recent financial statements of the declared related party that include the declared related party's sales revenue for a period ending on or before the end of the eligible revenue period are required to be audited under the *Corporations Act 2001* or any other law of the Commonwealth, a State or a Territory—those audited financial statements; and
 - (ii) in any other case—the most recent financial statements of the declared related party that include the declared related party's sales revenue for a period ending on or before the end of the eligible revenue period.
- (3) For subsection (1), **revenue** is revenue for a relevant period if the following conditions apply:
- (a) the revenue is reported in:
 - (i) the last financial statements for a period ending on or before the end of the eligible revenue period in which the relevant period occurs; or
 - (ii) if that period is shorter than the relevant period, the periods covered by those financial statements and the financial statements for as many other periods as amount to, in total, a period of at least equal length to the relevant period;
 - (b) if those financial statements cover a period longer than the relevant period, the revenue was earned in a period, within the period covered by the financial statements, that:
 - (i) is of equal length to the relevant period; and
 - (ii) the ACMA considers to be the most appropriate period, within the period covered by the financial statements, for matching with the relevant period.
- Example: A body's financial statements cover the period from 1 April in a year to 31 March in the following year. The relevant period runs from 1 July to 30 June. Although the first 3 months of the period covered by the financial statements are outside the relevant period, the revenue earned in those months might be considered to be part of the body's eligible revenue for the relevant period, as those months may be considered the most appropriate period for matching with the corresponding months of the following year (since the financial statements for the latter period cannot be considered).
- (4) If none of the sources mentioned in subsection (2) identifies the amount of an entity's sales revenue for a relevant period, the sales revenue for that period is to be worked out using as many sources as are necessary to identify the entity's sales revenue for the period.

Note: See section 15 for how to work out initial sales revenue based on sources identified in this section.

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- (5) If the ACMA makes a decision under subparagraph (3)(b)(ii), the ACMA must give written notice of the decision to the person or party to whom the decision relates.

13 Bundled revenue

- (1) To work out an amount of revenue to be deducted under Part 3 or 4 (*deductible revenue*), a participating person must:
- (a) separate the deductible revenue, or a kind of deductible revenue, from other amounts with which the deductible revenue is bundled; and
 - (b) deal only with the deductible revenue.
- (2) An amount of revenue is bundled revenue if the revenue:
- (a) comes from different sources or acts; and
 - (b) is received in a way that does not show how much of the amount came from the individual sources or acts.
- (3) Bundled revenue may also include the value of a benefit or service.
- (4) The ACMA may, in writing, declare that a specified amount of revenue of any of the following persons or parties is bundled revenue:
- (a) a specified participating person;
 - (b) a specified consolidated related party of a participating person;
 - (c) a specified declared related party of a participating person.
- (5) The declaration may apply to more than one person or party mentioned in subsection (4) but not generally to all persons or parties.
- (6) The declaration must also specify the amount of bundled revenue and either:
- (a) identify the amount that is deductible under Parts 3 and 4; or
 - (b) specify how the amount that is deductible is to be worked out.
- (7) The declaration must also state how the ACMA worked out the value of a benefit or service included in the bundled revenue.
- (8) If a participating person separates an amount or kind of deductible revenue from bundled revenue for Part 3 or 4, the participating person must identify:
- (a) the total amount of the bundled revenue; and
 - (b) the amount of bundled revenue that the person is deducting; and
 - (c) how the person worked out the amount of deductible revenue.

Part 3—Gross telecommunications sales revenue

14 Purpose of Part

- (1) The first step in working out a participating person's eligible revenue for an eligible revenue period is to work out the person's gross telecommunications sales revenue for that period.
- (2) This Part sets out how a participating person's gross telecommunications sales revenue is worked out.

15 Initial sales revenue

- (1) For the participating person, and each consolidated related party of the participating person (if any), work out the entity's sales revenue for the eligible revenue period using the sources mentioned in section 12.
- (2) For each declared related party of the participating person (if any):
 - (a) work out the declared related party's sales revenue for the eligible revenue period using the sources mentioned in section 12; and
 - (b) multiply that amount by the declared related party factor for that party.
- (3) Add the amounts worked out under subsection (2) (if any) to the amounts identified under subsection (1).
- (4) Subject to subsection (5), the result is the participating person's initial sales revenue.
- (5) The ACMA may declare, in writing, that the following is not part of the participating person's initial sales revenue:
 - (a) the whole of a declared related party's sales revenue;
 - (b) a specified proportion of a declared related party's sales revenue;
 - (c) a proportion of a declared related party's sales revenue that is worked out in a specified way.
- (6) The declaration may relate to one or more declared related parties who are specified in the declaration.

16 Non-telecommunications sales revenue

- (1) Deduct from the initial sales revenue any amount that:
 - (a) is non-telecommunications sales revenue of the participating person or a consolidated related party of the participating person; and
 - (b) the participating person wants to deduct.

Note: For the meaning of non-telecommunications sales revenue, see section 9.
- (2) Also deduct the result of multiplying any amount that:
 - (a) is non-telecommunications sales revenue of a declared related party of the participating person; and
 - (b) the participating person wants to deduct;by the declared related party factor for that party.

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- (3) If the participating person wants to deduct an amount (a *deductible amount*) from the participating person's initial sales revenue under this section, the deductible amount must not be more than the total amount (if any) received by the participating person, or a consolidated related party or declared related party of the participating person, in connection with the activity that created the deductible amount.

Example: If a participating person supplies gas services at a price that includes a subsidy provided by the participating person, the amount received by the participating person for the supply is a deductible amount.

17 Other telecommunications sales revenue

- (1) Add any amount of revenue that:
- (a) is mentioned in the financial statements referred to in subsection 12(2) or, if applicable, sources mentioned in subsection 12(4); and
 - (b) could reasonably be described as telecommunications sales revenue of the participating person or a consolidated related party of the participating person; and
 - (c) has not been identified as initial sales revenue under section 15.
- (2) Also add the result of multiplying any amount of revenue that:
- (a) is mentioned in the financial statements referred to in subsection 12(2) or, if applicable, sources mentioned in subsection 12(4); and
 - (b) could reasonably be described as telecommunications sales revenue of a declared related party of the participating person; and
 - (c) has not been identified as initial sales revenue under section 15; by the declared related party factor for that party.
- (3) The ACMA may, in writing, declare that the following is telecommunications sales revenue:
- (a) the value of a benefit or service received by a specified entity;
 - (b) a specified proportion of the value of a benefit or service received by a specified entity;
 - (c) a proportion of the value of a benefit or service received by a specified entity that is worked out in a specified way.
- (4) The declaration may apply to more than one of the following persons or parties:
- (a) specified participating persons;
 - (b) specified consolidated related parties of a participating person;
 - (c) specified declared related parties of a participating person; but not generally to all persons or parties.
- (5) The declaration must state how the ACMA worked out:
- (a) the value of any benefit or service mentioned in the declaration; and
 - (b) any proportion of revenue or value mentioned in the declaration.
- (6) Also add any amount that the ACMA declares to be telecommunications sales revenue under subsection (3).

18 Revenue before person becomes carrier or participating carriage service provider

- (1) Deduct any amount of telecommunications sales revenue that:
 - (a) was earned by a participating person or a consolidated related party of the participating person at any time during the eligible revenue period before the day on which the participating person became:
 - (i) a carrier; or
 - (ii) a participating carriage service provider; and
 - (b) the participating person wants to deduct.
- (2) Also deduct the result of multiplying any amount of telecommunications sales revenue that:
 - (a) was earned by a declared related party of the participating person at any time during the eligible revenue period before the day on which the participating person became:
 - (i) a carrier; or
 - (ii) a participating carriage service provider; and
 - (b) the participating person wants to deduct;
by the declared related party factor for that party.
- (3) However, the participating person may not use subsection (1) or (2) to deduct:
 - (a) an amount that was earned before the day on which the person or party became a carrier or a participating carriage service provider if the amount relates to an activity in the telecommunications industry that, by law, was required to be performed on or after that day; or
 - (b) an amount that was earned by a consolidated related party of a participating person during a period mentioned in paragraph (1)(a) in which the consolidated related party held a carrier licence; or
 - (c) an amount that was earned by a consolidated related party of a participating person during a period mentioned in paragraph (1)(a) in which the consolidated related party was a participating carriage service provider.

19 Revenue after person ceases to be carrier or participating carriage service provider

- (1) Deduct any amount of telecommunications sales revenue that:
 - (a) was earned by a participating person or a consolidated related party of the participating person at any time during the eligible revenue period after the day on which the participating person ceased being:
 - (i) a carrier; or
 - (ii) a participating carriage service provider; and
 - (b) the participating person wants to deduct.
- (2) Also deduct the result of multiplying any amount of telecommunications sales revenue that:
 - (a) was earned by a declared related party of the participating person at any time during the eligible revenue period after the day on which the participating person ceased being:
 - (i) a carrier; or
 - (ii) a participating carriage service provider; and

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- (b) the participating person wants to deduct;
by the declared related party factor for that party.
- (3) However, the participating person may not use subsection (1) or (2) to deduct:
 - (a) an amount that was earned after the day on which the person or party ceased being a carrier or a participating carriage service provider if the amount relates to an activity in the telecommunications industry that, by law, was required to be performed on or before that day; or
 - (b) an amount that was earned by a consolidated related party of a participating person during a period mentioned in paragraph (1)(a) in which the consolidated related party held a carrier licence; or
 - (c) an amount that was earned by a consolidated related party of a participating person during a period mentioned in paragraph (1)(a) in which the consolidated related party was a participating carriage service provider.

20 Declarations about revenue

- (1) The ACMA may declare, in writing, that a specified amount is part of a specified participating person's gross telecommunications sales revenue for an eligible revenue period.
- (2) The ACMA may declare, in writing, that the value of a specified benefit or service is part of a specified participating person's gross telecommunications sales revenue for an eligible revenue period.
- (3) A declaration under subsection (2) must also state how the ACMA worked out the value of the benefit or service.
- (4) A declaration under this section may apply to one or more participating persons but not generally to all participating persons.

21 Gross telecommunications sales revenue

The result of adding any amounts identified under sections 17 and 20 to the amount identified under section 15, and subtracting any amounts identified under sections 16, 18 and 19, is the participating person's ***gross telecommunications sales revenue*** for the eligible revenue period.

Part 4 — Net telecommunications sales revenue

22 Purpose of Part

- (1) After working out a participating person's gross telecommunications sales revenue for an eligible revenue period, the next step is to work out the participating person's net telecommunications sales revenue for that period by deducting amounts from the gross telecommunications sales revenue.
- (2) This Part sets out how net telecommunications sales revenue is worked out.

23 Deductions—overseas activities

- (1) Deduct each amount of telecommunications sales revenue that:
 - (a) was earned by the participating person, or a consolidated related party of the participating person, from overseas activities; and
 - (b) is part of the participating person's gross telecommunications sales revenue; and
 - (c) the participating person wants to deduct.
- (2) Also deduct the result of multiplying each amount of telecommunications sales revenue that:
 - (a) was earned by a declared related party of the participating person from overseas activities; and
 - (b) is, after having been multiplied by the declared related party factor for that party, part of the participating person's gross telecommunications sales revenue; and
 - (c) the participating person wants to deduct; by the declared related party factor for that party.
- (3) However, the participating person may not use subsection (1) or (2) to deduct an amount earned from supplying to or from Australia a carriage service mentioned in paragraph 16(1)(b) or (c) of the Telecommunications Act.
- (4) In this section:

overseas activities means any of the following acts that were carried out outside Australia:

- (a) supplying a carriage service, in a place outside Australia, that originates and terminates outside Australia;
- (b) supplying goods or services, in a place outside Australia, for use in connection with a carriage service that originates and terminates outside Australia;
- (c) supplying a content service, in a place outside Australia, using a carriage service that originates and terminates outside Australia;
- (d) manufacturing customer equipment or customer cabling in a place outside Australia;
- (e) importing, into a place outside Australia, customer equipment or customer cabling that is manufactured in a place outside Australia;

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- (f) installing, maintaining, operating or providing access to a telecommunications network, or a facility, that:
 - (i) is located in a place outside Australia; and
 - (ii) is used to supply a carriage service that originates and terminates outside Australia.

Note 1: An example of revenue earned from overseas activities is revenue earned from calls made using a global roaming service that originate and terminate outside Australia.

Note 2: Examples of activities for which revenue cannot be deducted include:

- (a) customer charges for international telephone calls; and
- (b) settlement payments made to the participating person by a foreign participating person.

24 Deductions—acts in Australia for overseas services

- (1) Deduct each amount of telecommunications sales revenue that:
 - (a) was earned by the participating person, or a consolidated related party of the participating person, from an act carried out:
 - (i) in Australia; and
 - (ii) solely for the purposes of the supply of a carriage service, in a place outside Australia, that originates and terminates outside Australia; and
 - (b) is part of the participating person's gross telecommunications sales revenue; and
 - (c) the participating person wants to deduct.
- (2) Also deduct the result of multiplying each amount of telecommunications sales revenue that:
 - (a) was earned by a declared related party of the participating person from an act carried out:
 - (i) in Australia; and
 - (ii) solely for the purposes of the supply of a carriage service, in a place outside Australia, that originates and terminates outside Australia; and
 - (b) is, after having been multiplied by the declared related party factor for that party, part of the participating person's gross telecommunications sales revenue; and
 - (c) the participating person wants to deduct;
by the declared related party factor for that party.
- (3) However, the participating person may not use subsection (1) or (2) to deduct an amount earned from supplying to or from Australia a carriage service mentioned in paragraph 16(1)(b) or (c) of the Telecommunications Act.

Note 1: An example of revenue under paragraphs (1)(a) and (2)(a) is revenue from providing in Australia management, switching or transit carriage services for a carriage service originating and terminating outside Australia.

Note 2: Examples of activities for which revenue cannot be deducted include:

- (a) customer charges for international telephone calls; and
- (b) settlement payments made to the participating person by a foreign participating person.

25 Deductions—customer equipment

- (1) Deduct each amount of telecommunications sales revenue that:

- (a) was earned by the participating person, or a consolidated related party of the participating person, from:
 - (i) selling, installing, insuring, repairing or maintaining customer equipment; or
 - (ii) renting customer equipment to a customer; and
 - (b) is part of the participating person's gross telecommunications sales revenue; and
 - (c) the participating person wants to deduct.
- (2) Also deduct the result of multiplying each amount of telecommunications sales revenue that:
- (a) was earned by a declared related party of the participating person from:
 - (i) selling, installing, insuring, repairing or maintaining customer equipment; or
 - (ii) renting customer equipment to a customer; and
 - (b) is, after having been multiplied by the declared related party factor for that party, part of the participating person's gross telecommunications sales revenue; and
 - (c) the participating person wants to deduct;
- by the declared related party factor for that party.

26 Deductions—content services

- (1) Deduct each amount of telecommunications sales revenue that:
- (a) was earned by the participating person, or a consolidated related party of the participating person, for the content of a content service; and
 - (b) is part of the participating person's gross telecommunications sales revenue; and
 - (c) the participating person wants to deduct.
- Note: Examples of revenue under paragraph (1)(a) include:
- (a) revenue earned from a program, including a program broadcast on a subscription broadcasting service; and
 - (b) revenue earned from a message on a 190 telephone service.
- (2) Also deduct the result of multiplying each amount of telecommunications sales revenue that:
- (a) was earned by a declared related party of the participating person for the content of a content service; and
 - (b) is, after having been multiplied by the declared related party factor for that party, part of the participating person's gross telecommunications sales revenue; and
 - (c) the participating person wants to deduct;
- by the declared related party factor for that party.
- (3) However, the participating person may not use subsection (1) or (2) to deduct an amount earned from carrying a content service.

27 Deductions—exempt base station

- (1) Deduct each amount of telecommunications sales revenue that:
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- (a) was earned by the participating person, or a consolidated related party of the participating person, from the use of an exempt base station during the eligible revenue period; and
- (b) is part of the participating person's gross telecommunications sales revenue; and
- (c) the participating person wants to deduct.

Note: See subsection 34(2) of the Telecommunications Act for when a base station is an exempt base station.

- (2) Also deduct the result of multiplying each amount of telecommunications sales revenue that:
 - (a) was earned by a declared related party of the participating person from the use of an exempt base station during the eligible revenue period; and
 - (b) is, after having been multiplied by the declared related party factor for that party, part of the participating person's gross telecommunications sales revenue; and
 - (c) the participating person wants to deduct;by the declared related party factor for that party.

28 Deductions—infrastructure revenue

- (1) Deduct each amount of telecommunications sales revenue that:
 - (a) was earned by the participating person, or a consolidated related party of the participating person, from:
 - (i) the construction or installation of the infrastructure of a telecommunications network on the network side of the boundary of a telecommunications network; or
 - (ii) the management of the construction or installation of the infrastructure of a telecommunications network on the network side of the boundary of a telecommunications network; and
 - (b) is part of the participating person's gross telecommunications sales revenue; and
 - (c) the participating person wants to deduct.
- (2) Also deduct the result of multiplying each amount of telecommunications sales revenue that:
 - (a) was earned by a declared related party of the participating person from:
 - (i) the construction or installation of the infrastructure of a telecommunications network on the network side of the boundary of a telecommunications network; or
 - (ii) the management of the construction or installation of the infrastructure of a telecommunications network on the network side of the boundary of a telecommunications network; and
 - (b) is part of the participating person's gross telecommunications sales revenue; and
 - (c) the participating person wants to deduct;by the declared related party factor for that party.
- (3) Also deduct each amount of telecommunications sales revenue that:
 - (a) was earned by the participating person, or a consolidated related party of the participating person, from:

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- (i) the maintenance of the infrastructure of a telecommunications network on the network side of the boundary of a telecommunications network; or
 - (ii) the management of the maintenance of the infrastructure of a telecommunications network on the network side of the boundary of a telecommunications network; and
 - (b) is, after having been multiplied by the declared related party factor for that party, part of the participating person's gross telecommunications sales revenue; and
 - (c) the participating person wants to deduct.
- (4) Also deduct the result of multiplying each amount of telecommunications sales revenue that:
- (a) was earned by a declared related party of the participating person from:
 - (i) the maintenance of the infrastructure of a telecommunications network on the network side of the boundary of a telecommunications network; or
 - (ii) the management of the maintenance of the infrastructure of a telecommunications network on the network side of the boundary of a telecommunications network; and
 - (b) is, after having been multiplied by the declared related party factor for that party, part of the participating person's gross telecommunications sales revenue; and
 - (c) the participating person wants to deduct;
- by the declared related party factor for that party.

29 Deductions—inter-person input payments

- (1) Deduct each inter-person input payment that:
- (a) is made by the participating person (the first participating person) or a consolidated related party of the first participating person to:
 - (i) another participating person (the second participating person) or a consolidated related party or declared related party of the second participating person; or
 - (ii) a non-participating person or a consolidated related party or declared related party of the non-participating person; and
 - (b) is made while the first participating person and:
 - (i) in the case of subparagraph (a)(i) – the second participating person; or
 - (ii) in the case of subparagraph (a)(ii) – the non-participating person;are each either:
 - (iii) the holder of a carrier licence; or
 - (iv) a participating carriage service provider; and
 - (c) the first participating person wants to deduct.
- (2) Also deduct the result of multiplying each inter-person input payment that:
- (a) is made by a declared related party of the participating person (the first participating person) to:
 - (i) another participating person (the second participating person) or a consolidated related party or declared related party of the second participating person; or

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- (ii) a non-participating person or a consolidated related party or declared related party of the non-participating person; and
- (b) is made while the first participating person and:
 - (i) in the case of subparagraph (a)(i) – the second participating person; or
 - (ii) in the case of subparagraph (a)(ii) – the non-participating person;are each either:
 - (iii) the holder of a carrier licence; or
 - (iv) a participating carriage service provider; and
- (c) the first participating person wants to deduct;
by the declared related party factor for that party.

30 Other input amounts

- (1) The ACMA may, in writing, declare that a specified amount paid or payable by a participating person, or a consolidated related party or declared related party of the participating person, to allow the participating person to provide a telecommunications good or service (other than an inter-person input payment) is an input amount.
- (2) The declaration may relate to one or more specified participating persons, but not all participating persons.
- (3) A participating person may deduct an input amount declared by the ACMA.

31 Limit on deductions

- (1) If a participating person wants to deduct an amount (a *deductible amount*) from the participating person's gross telecommunications sales revenue under any of sections 23 to 28, the deductible amount must not be more than the total amount (if any) received by the participating person, or a consolidated related party or declared related party of the participating person, in connection with the activity that created the deductible amount.

Example: If a participating person sells customer equipment at a price that includes a subsidy provided by the participating person, the amount received by the participating person for the sale is a deductible amount.

- (2) If a participating person wants to deduct an inter-person input payment from the participating person's gross telecommunications sales revenue, the amount to be deducted must not be more than the total amount (if any) paid by the participating person, or a consolidated related party or declared related party of the participating person, in connection with the activity that led to the inter-person input payment.

Example: If a participating person makes a payment for interconnection at a price that includes a subsidy provided by the other party, the amount paid for the interconnection is a deductible amount.

32 Suspension of deduction entitlements

- (1) The ACMA may, in writing, declare that one or more specified participating persons (but not all participating persons) are not entitled to deduct a specified amount or payment under this Part.
- (2) The declaration must state that the declaration is to have effect:

- (a) for a specified eligible revenue period; or
- (b) while the declaration is in force.

33 Declarations about deductible revenue

The ACMA may declare, in writing, that a specified amount of gross telecommunications sales revenue of one or more specified participating persons (but not all participating persons) may be deducted.

34 Net telecommunications sales revenue

The result of deducting any amounts identified under sections 23 to 30, and 33, from the participating person's gross telecommunications revenue is the participating person's ***net telecommunications sales revenue*** for the eligible revenue period.

Part 5 — Eligible revenue

35 Purpose of Part

- (1) After the participating person has worked out the participating person's net telecommunications sales revenue for an eligible revenue period, the participating person must work out the participating person's eligible revenue for the eligible revenue period.
- (2) This Part sets out how that is done.

Note: If a participating person's net telecommunications sales revenue has been accounted for independently of any other participating persons, go to section 37.

36 Revenue accounted for on a group basis

- (1) If the net telecommunications sales revenue of 2 or more participating persons has been accounted for on a group basis, identify from the accounts that were prepared on the group basis:
 - (a) how much of the net telecommunications sales revenue to which those accounts relate is the participating person's net telecommunications sales revenue; and
 - (b) how much of the net telecommunications sales revenue to which those accounts relate is the net telecommunications sales revenue of the other participating person or persons to which those accounts relate.
- (2) The total of the amounts of net telecommunications sales revenue identified for each participating person under subsection (1) must equal the net telecommunications sales revenue of the group.
- (3) The ACMA may, in writing, declare that the eligible revenue of a specified participating person is to be attributed in a specified way when the revenue is being worked out by the person as a member of a group.

37 Eligible revenue

- (1) A participating person's **eligible revenue** for an eligible revenue period is equal to the participating person's net telecommunications sales revenue if:
 - (a) in a case when section 36 applies—the amount worked out by applying section 36 to the participating person's net telecommunications sales revenue is zero or more; or
 - (b) in any other case—the participating person's net telecommunications sales revenue is zero or more.
- (2) A participating person's **eligible revenue** for an eligible revenue period is taken to be zero if:
 - (a) in a case when section 36 applies—the amount worked out by applying section 36 to the participating person's net telecommunications sales revenue is less than zero; or
 - (b) in any other case—the participating person's net telecommunications sales revenue is less than zero.

Part 6 — Miscellaneous

38 Engaging with affected participating persons before making declarations

- (1) The ACMA must comply with this section before the ACMA makes a declaration under this determination.
- (2) The ACMA must give to each participating person to which the declaration would apply a notice that:
 - (a) informs the person that the ACMA proposes to make the declaration; and
 - (b) invites the person to make written submissions about the proposal, by a specified date that is at least 14 days after the date of the notice.
- (3) If the ACMA makes the declaration after consulting the participating person, the ACMA must give the person:
 - (a) a notice that states the ACMA has made the declaration; and
 - (b) a copy of the declaration.
- (4) If the ACMA decides not to make the declaration, it must give each participating person mentioned in subsection (2) a notice of the decision.
- (5) The ACMA:
 - (a) may consult any other persons, to which the declaration would not apply, about the declaration; but
 - (b) is not required to comply with subsections (2), (3) and (4) when consulting the other persons.
- (6) A declaration that is made without complying with this section has no effect.

39 Review of decisions

A person who is adversely affected by a decision to make a declaration under this determination may make an application to the Administrative Appeals Tribunal for review of the decision.

40 Period for lodging return of eligible revenue

For paragraph 43(1)(b) of the Act, the period is 4 months after the eligible revenue period ends.

Example: If the eligible revenue period ends on 30 June 2015, the participating person must give the written return to the ACMA before 1 November 2015.