



Telecommunications (Consumer Protection and Service Standards) (Levy Formula Modification) Determination 2019

I, Paul Fletcher, Minister for Communications, Cyber Safety and the Arts, make the following Determination.

Dated 29 October 2019

Paul Fletcher
Minister for Communications, Cyber Safety and the Arts

Contents

1 Name.....	1
2 Commencement.....	1
3 Authority.....	1
4 Definitions.....	1
5 Schedules.....	2
6 Modification of the formula in subsection 50(1) of the Act.....	2
Schedule 1—Repeals	4
<i>Levy Amount Formula Modification Determination 2015</i>	4

1 Name

This instrument is the *Telecommunications (Consumer Protection and Service Standards) (Levy Formula Modification) Determination 2019*.

2 Commencement

This instrument commences the day after registration.

3 Authority

This instrument is made under subsection 50(2) of the *Telecommunications (Consumer Protection and Service Standards) Act 1999*.

4 Definitions

Note: A number of expressions used in this instrument are defined in section 5 of the Act, including the following:

- (a) eligible levy period;
- (b) eligible revenue period;
- (c) levy contribution factor;
- (d) overall levy target amount;
- (e) participating person.

In this instrument:

adjustment factor means the sum of the levy contribution factors for that eligible levy period worked out under section 49 of the Act for all participating persons covered by subsections 6(4) and 6(5).

ACMA means the Australian Communications and Media Authority.

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

date of assessment means the date decided by the ACMA, being a date which is no earlier than the end of the relevant eligible revenue period and no later than the date the ACMA issues its written assessment under section 51 of the Act.

Chapter 5 body corporate has the same meaning as in section 9 of the *Corporations Act 2001*.

current eligible levy period means the 2019-20 financial year.

future eligible levy period means the 2020-21 financial year or a later financial year.

previous levy deficit means the total of any shortfall between the ‘overall levy target amount’ for the eligible levy period immediately before the relevant eligible levy period and the amounts paid by all participating persons to the Commonwealth for that earlier eligible levy period.

5 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

6 Modification of the formula in subsection 50(1) of the Act

- (1) The formula in subsection 50(1) of the Act is modified for the classes of participating persons, and for the periods, as set out in subsections (2), (3), (4) and (5).

Levy amount – for participating persons that cease to exist

- (2) If:
- (a) a person is a participating person for an eligible revenue period (the **relevant eligible revenue period**); and
 - (b) that person ceases to exist on or before the date of assessment;

then, for the purposes of the Act, the levy amount for that person for the eligible levy period starting immediately after the relevant eligible revenue period is zero.

Levy amount – for participating persons under external administration, wound up, in receivership etc

- (3) If:
- (a) a person is a participating person for an eligible revenue period (the **relevant eligible revenue period**); and
 - (b) that person is a Chapter 5 body corporate on or before the date of assessment;

then, for the purposes of the Act, the levy amount for that person for the eligible levy period starting immediately after the relevant eligible revenue period is the amount worked out using the formula:

Levy contribution factor x Overall levy target amount

Note 1: External administration is primarily dealt with by Chapter 5 of the *Corporations Act 2001*. Chapter 5 includes provisions dealing with schemes of arrangement, administration, receivership and winding up.

Note 2: The *Telecommunications (Industry Levy) Act 2012* imposes levy on the levy amount.

Levy amount – for all other participating persons – current eligible levy period

- (4) For the current eligible levy period, if:
- (a) a person is a participating person for the eligible revenue period; and
 - (b) subsections (2) and (3) of this instrument do not apply to that person;

then, for the purposes of the Act, the levy amount for the current eligible levy period for that person is the amount worked out using the formula:

$\frac{\text{Levy contribution factor}}{\text{Adjustment factor}} \times (\text{Overall levy target amount} + \text{Previous levy deficit} + \$8,000,000)$

Note: The *Telecommunications (Industry Levy) Act 2012* imposes levy on the levy amount.

Levy amount – for all other participating persons – future eligible levy period

- (5) For a future eligible levy period, if:
- (a) a person is a participating person for an eligible revenue period (the ***relevant eligible revenue period***); and
 - (b) subsections (2) and (3) of this instrument do not apply to that person;

then, for the purposes of this Act, the levy amount for that person for the eligible levy period starting immediately after the relevant eligible revenue period is the amount worked out using the formula:

$\frac{\text{Levy contribution factor}}{\text{Adjustment factor}} \times (\text{Overall levy target amount} + \text{Previous levy deficit})$

Note: The *Telecommunications (Industry Levy) Act 2012* imposes levy on the levy amount.

Schedule 1—Repeals

Levy Amount Formula Modification Determination 2015

1 The whole of the instrument

Repeal the instrument