

EXPLANATORY STATEMENT

Approved by the Australian Communications and Media Authority

Telecommunications (Consumer Protection and Service Standards) Act 1999

Telecommunications (Consumer Protection and Service Standards) (Assessment Deadline and Standard Due Date) Determination 2021

Authority

The Australian Communications and Media Authority (**the ACMA**) has made the *Telecommunications (Consumer Protection and Service Standards) (Assessment Deadline and Standard Due Date) Determination 2021* (**the instrument**) under subsections 102(5) and 102D(15) of the *Telecommunications (Consumer Protection and Service Standards) Act 1999* (**the Act**).

The instrument has been made following the introduction of the Regional Broadband Scheme (the Scheme) which establishes an ongoing funding arrangement for fixed wireless and satellite infrastructure through the imposition of a charge. Under the Scheme carriers self-report to the ACMA on the number of chargeable premises associated with a local access line owned or controlled by the carrier for each month of an eligible financial year (reporting period). The local access lines need to have been used to provide access to a designated broadband service within that month. The ACMA uses the information provided in the reports to calculate the charge (if any) payable by each carrier. The charge will be collected one year in arrears and the first reporting period relates to the six month period from 1 January 2021 to 30 June 2021.

A person, who is a carrier with potentially chargeable premises for a month, under section 93 of the Act, may have reporting obligations under section 100 of the Act. The ACMA is required, under section 102 of the Act to provide, if applicable, a written assessment in relation to any report provided by a person by the “assessment deadline”.

The assessment deadline is defined under subsection 102(4) of the Act as the date by which the ACMA must make a written assessment setting out:

- total number of chargeable premises and annual chargeable premises associated with a local access line of a person for each month within the financial year;
- the annual base and administrative cost for the financial year; and
- the charge payable by the person in relation to the financial year.

The “standard due date” is the date by which the charge payable by a person who has been provided an invoice by the ACMA is due and payable.

Purpose and operation of the instrument

The instrument moves the date by which the ACMA is required to provide a written assessment to a person who has provided a report to the ACMA under section 100 of the Act, from 30 November next following the financial year to 31 December next following the financial year.

The proposed change to the “assessment deadline” date is accompanied by an amendment to the “standard due date”. This is because paragraph 102(4)(b) of the Act provides that the date of assessment ascertained in accordance with an instrument under subsection 102(5) of the Act must not be later than 2 months before the standard due date. If the date of assessment is to be 31 December, the standard due date must be no earlier than two months after that date.

Paragraph 102D(14)(a) of the Act provides that the standard due date for a financial year is 31 December next following the financial year. The instrument ascertains a later date of 28 February next

following the financial year. This later date ensures that the assessment deadline is not later than 2 months before the standard due date for a financial year.

The proposed extended timeframes allow the ACMA to work with carriers to ensure compliance with the new reporting requirements of the Act, including assisting with the correct application of the various transitional rules, and estimating the charge for any eligible carriers that fail to submit a report to the ACMA.

The instrument is a legislative instrument for the purposes of the *Legislation Act 2003 (the LA)*.

Documents incorporated by reference

No documents are incorporated by reference in the instrument.

Consultation

Before the instrument was made, the ACMA was satisfied that consultation was undertaken to the extent appropriate and reasonably practicable, in accordance with section 17 of the LA.

The ACMA undertook a public consultation on the making of the instrument for a four-week period from 1 March 2021, inviting feedback on the proposed amendments. The consultation was facilitated through the public release of a consultation paper and a draft of the proposed instrument on the ACMA's website.

The ACMA received no submissions or comments in relation to the consultation paper or the proposed instrument.

Regulatory impact assessment

The ACMA undertook a preliminary assessment and based on this preliminary assessment, the Office of Best Practice Regulation (OBPR) determined that the regulatory change effected by the instrument has no more than a minor impact and has therefore verified that no further regulatory impact analysis is required (OBPR reference number 43176).

Statement of compatibility with human rights

Subsection 9(1) of the *Human Rights (Parliamentary Scrutiny) Act 2011* requires the rule-maker in relation to a legislative instrument to which section 42 (disallowance) of the LA applies to cause a statement of compatibility with human rights to be prepared in respect of that legislative instrument.

The statement of compatibility set out below has been prepared to meet that requirement.

Overview of the instrument

The instrument relates to the Scheme. Under section 102 of the Act the ACMA is required to make a written assessment setting out certain matters by the "assessment deadline". Section 102D of the Act provides that a charge payable by a person becomes due and payable on the "standard due date". This instrument moves:

- (a) the "assessment deadline" from 30 November next following the financial year to 31 December next following the financial year; and
- (b) the "standard due date" from 31 December next following the financial year to 28 February next following the financial year.

These changes extend the timeframes available to the ACMA to assess the charge and make a written assessment and delay the invoice due date from the peak holiday season in December to February the following year.

Human rights implications

The ACMA has assessed whether the instrument is compatible with human rights, being the rights and freedoms recognised or declared by the international instruments listed in subsection 3(1) of the *Human Rights (Parliamentary Scrutiny) Act 2011* as they apply to Australia.

Having considered the likely impact of the instrument and the nature of the applicable rights and freedoms, the ACMA has formed the view that the instrument does not engage any of those rights or freedoms.

Conclusion

The instrument is compatible with human rights as it does not raise any human rights issues.

Notes to the *Telecommunications (Consumer Protection and Service Standards) (Assessment Deadline and Standard Due Date) Determination 2021*

Section 1 Name

This section provides for the instrument to be cited as the *Telecommunication (Consumer Protection and Service Standards) (Assessment Deadline and Standard Due Date) Determination 2021*.

Section 2 Commencement

This section provides for the instrument to commence at the start of the day after it is registered on the Federal Register of Legislation.

The Federal Register of Legislation may be accessed free of charge at www.legislation.gov.au.

Section 3 Authority

This instrument is made under subsections 102(5) and 102D(15) of the *Telecommunications (Consumer Protection and Service Standards) Act 1999*.

Section 4 Definition

This section defines “Act” as the *Telecommunications (Consumer Protection and Service Standards) Act 1999*.

Section 5 Assessment deadline

This section provides that the assessment deadline for a financial year is 31 December next following the financial year.

Section 6 Standard due date

This section provides that the standard due date for a financial year is 28 February next following the financial year.