

## Instruments under the Telecommunications Legislation Amendment (Competition and Consumer Safeguards) Bill 2009

*(Those instruments that are not legislative instruments are not disallowable.)*

<b>Instrument Description</b>	<b>Provision under which instrument is made</b>	<b>Made by (Minister/ACCC/ACMA)</b>	<b>Legislative instrument? (Yes/No, and relevant provision)</b>
Set out matters ACCC must have regard to in deciding whether to accept a structural separation undertaking under ss 577A(1)	Tel Act, ss 577A(3)	Minister	No, ss 577A(14)
Exempt fixed-line carriage services from the structural separation undertaking	Tel Act, ss 577A(10)	Minister	Yes, ss 577A(10)
Exempt telecommunications networks from the structural separation undertaking	Tel Act, ss 577A(11)	Minister	Yes, ss 577A(11)
Set out matters ACCC must have regard to in deciding whether to accept a variation of a structural separation undertaking covered by ss 577A(1)(b)	Tel Act, ss 577B(5)	Minister	No, ss 577B(9)
Determine that a specified part of the spectrum is not a designated part of the spectrum for the purposes of the Tel Act	Tel Act, ss 577H(3)	Minister	Yes, ss 577H(3)
Determine that a specified part of the spectrum is a designated part of the spectrum for the purposes of the Tel Act	Tel Act, ss 577H(4)	Minister	Yes, ss 577H(4)
Declare that Telstra is exempt from the requirement to have an undertaking under section 577C	Tel Act, ss 577J(3)	Minister	No, ss 577J(7)
Declare that Telstra is exempt from the requirement to have an undertaking under section 577E	Tel Act, ss 577J(5)	Minister	No, ss 577J(7)

<b>Instrument Description</b>	<b>Provision under which instrument is made</b>	<b>Made by (Minister/ACCC/ACMA)</b>	<b>Legislative instrument? (Yes/No, and relevant provision)</b>
Determine that a specified eligible service is not a regulated service for the purposes of Part 9 of Schedule 1	Tel Act, cl 71(3) of Schedule 1	Minister	Yes, cl 71(3) of Schedule 1
Determine that a specified eligible service is a regulated service for the purposes of Part 9 of Schedule 1	Tel Act, cl 71(4) of Schedule 1	Minister	Yes, cl 71(3) of Schedule 1
Determine requirements to be complied with by a draft or final functional separation undertaking (a functional separation requirements determination)	Tel Act, cl 75(1) of Schedule 1	Minister	No, cl 75(6) of Schedule 1
Specify a longer period in which Telstra must give the Minister a draft functional separation undertaking	Tel Act, cl 76(3) of Schedule 1	Minister	No, cl 76(9) of Schedule 1
Vary an instrument under cl 76(3)	Tel Act, cl 76(5) of Schedule 1	Minister	No, cl 76(9) of Schedule 1
Approve, vary and approve or replace and approve draft functional separation undertaking	Tel Act, cl 77(2) of Schedule 1	Minister	No, cl 77(8) of Schedule 1
Final functional separation undertaking	Tel Act, cl 79(1) of Schedule 1	Minister (see cl 77(2))	No, cl 79(4) of Schedule 1
Vary the final functional separation undertaking	Tel Act, cl 80(2) of Schedule 1	Minister	No, cl 80(10) of Schedule 1
Access determinations	TPA, ss 152BC(1)	ACCC	No, ss 152BC(7)
Register of access determinations	TPA, ss 152BCW(1)	ACCC	No, ss 152BCW(4)
Binding rules of conduct	TPA, ss 152BD(1)	ACCC	No, ss 152BD(11)
Register of binding rules of conduct	TPA, paras 152BDN(1)	ACCC	No, ss 152BDN(4)

Instrument Description	Provision under which instrument is made	Made by (Minister/ACCC/ACMA)	Legislative instrument? (Yes/No, and relevant provision)
Information required to be provided when an access agreement is lodged or varied	TPA, paras 152BEA(1)(d), (2)(e), (3)(b), (4)(d) and (5)(b)	ACCC	No, ss 152BEA(14)
Requirement to lodge information in the form of a statutory declaration	TPA, ss 152BEA(11)	ACCC	No, ss 152BEA(14)
Determine requirements for the purposes of para 6A(1)(d) (requirements for notice where VOIP or mobile service is provided in fulfilment of the USO)	TCPSS Act, ss6A(2)	ACMA	Yes, ss6A(2)
Determine requirements for the purposes of para 6A(3)(e) (requirements for notice where service other than VOIP or mobile service is not provided in fulfilment of the USO)	TCPSS Act, ss6A(4)	ACMA	Yes, ss6A(4)
Determine specified characteristics for the purpose of ss 8BA(1) (characteristics of a standard telephone services)	TCPSS Act, ss 8BA(2)	Minister	Yes, ss 8BA(2)
Determine requirements for the purposes of ss 9(2C) (requirements regarding a request for the supply of a standard telephone service)	TCPSS Act, ss 9(2D)	Minister	Yes, ss 9(2C)
Determine circumstances for the purposes of ss 9(2E) (circumstances in which an obligation in relation to the supply of a standard telephone service does not arise)	TCPSS Act, ss 9(3)	Minister	Yes, ss 9(3)
Determine what is, or what is not, necessary to ensure that prescribed carriage services are reasonably accessible	TCPSS Act, ss 9A(1)	Minister	Yes, ss 9A(2)

<b>Instrument Description</b>	<b>Provision under which instrument is made</b>	<b>Made by (Minister/ACCC/ACMA)</b>	<b>Legislative instrument? (Yes/No, and relevant provision)</b>
Set out (direct) standards to be complied with by a primary universal service provider re: a standard telephone service	TCPSS Act, ss 12EB(1)	Minister	Yes, ss 12EB(7)
Set out (performance benchmark) standards to be complied with by a primary universal service provider regarding a standard telephone service	TCPSS Act, ss 12EC(1)	Minister	Yes, ss 12EC(5)
Set minimum benchmarks in relation to compliance by a primary universal service provider with a standard in force under ss 12EC(1)	TCPSS Act, ss 12EC(6)	Minister	Yes, ss 12EC(6)
Set out (direct) standards to be complied with by a primary universal service provider re: payphones	TCPSS Act, ss 12ED(1)	Minister	Yes, ss 12ED(6)
Set out (performance benchmark) standards to be complied with by a primary universal service provider regarding payphones	TCPSS Act, ss 12EE(1)	Minister	Yes, ss 12EE(5)
Set minimum benchmarks in relation to compliance by a universal service provider with a standard in force under ss 12EE(1)	TCPSS Act, ss 12EE(6)	Minister	Yes, ss 12EE(6)
Set out rules to be complied with by a primary universal service provider in relation to the places or areas in which payphones are to be located	TCPSS, ss 12EF(1)	Minister	Yes, ss 12EF5)
Set out rules to be complied with by a primary universal service provider in relation to process for public consultation on the location or removal of payphones	TCPSS Act, ss 12EG(1)	Minister	Yes, ss 12EG(5)

<b>Instrument Description</b>	<b>Provision under which instrument is made</b>	<b>Made by (Minister/ACCC/ACMA)</b>	<b>Legislative instrument? (Yes/No, and relevant provision)</b>
Set out rules to be complied with by a primary universal service provider in relation to the process for resolution of complaints about the location or removal of payphones	TCPSS Act, ss 12EH(1)	Minister	Yes, ss 12EH(4)
Directions about the removal of payphones	TCPSS Act, ss 12EI(2) and (3)	ACMA	No, ss 12EI(7)
Set minimum benchmarks in relation to compliance by carriage service providers with a standard in force under s 115	TCPSS Act, ss 117B(1)	Minister	Yes, ss 117B(1)
Make standards to be complied with by carriage service providers regarding wholesale carriage services	TCPSS Act, ss 117D(1)	Minister	Yes, ss 117D(1)
Set minimum benchmarks in relation to compliance by carriage service providers with a standard in force under s 117D	TCPSS Act, ss 117E(1)	Minister	Yes, ss 117E(1)
Set out listed infringement notice provisions	Tel Act, ss 572E(7)	ACMA	Yes, ss 572E(7)
Determination specifying a particular number of penalty units to apply to an infringement notice given in relation to a kind of contravention of ss 68 or 101 of the Tel Act	Tel Act, ss 572G(2)	Minister	Yes, ss 572G(2)
Guidelines relating to infringement notices	Tel Act, ss 572M(2)	ACMA	Yes, ss 572M(2)

This table does not include clarifying amendments that change the way instruments that are currently provided for under legislation for are referred to in that legislation: ie. it does not detail amendments where the Bill replaces outdated references to disallowable instruments for the purposes of s 46A of the *Acts Interpretation Act 1901* with references to legislative instruments for the purposes of the *Legislative Instruments Act 2003*.