

TRADE PRACTICES ACT 1974

Determination under subsection 152AS(1) by the Australian Competition and Consumer Commission Class exemption from standard access obligations in respect of DTCS

1. Title

This Determination may be cited as Class Exemption Determination No. 4 of 2008.

2. Commencement and Expiry

- (1) This Determination comes into effect 12 months after the date of release of the Commission's Final Decision on Telstra's individual applications for exemption from the standard access obligations set out in section 152AR of the Act in respect of DTCS in certain nominated areas, lodged 24 August and 21 December 2007.
- (2) This Determination will expire on 31 December 2012 or upon the expiry or revocation of the DTCS Declaration, whichever occurs first.

3. Interpretation

- (1) Unless the contrary intention appears, where words or phrases used in this Determination are defined in the *Trade Practices Act 1974*, the *Telecommunications Act 1997* or the instrument declaring the declared service, those words or phrases have the same meaning in this Determination.
- (2) In this Determination, unless the contrary intention appears –

Act means the *Trade Practices Act 1974* (Cth).

Brisbane Metro Exemption ESAs means the ESAs set out in Item 6(5) of this Determination.

Commission means the Australian Competition and Consumer Commission.

DTCS means domestic transmission capacity service declared by the Commission under subsection 152AL(3) of the Act pursuant to the DTCS Declaration.

DTCS Declaration means the Declaration made by the Commission under subsection 152AL(3) of the Act in respect of the DTCS with effect from the 7 April 2004 and published in the Commonwealth of Australia Gazette No. GN 14 of 7 April 2004, as varied from time to time and any subsequent re-declaration of the DTCS.

Note: The Commission may extend or further extend the expiry date of the DTCS Declaration under subsection 152ALA(4).

Exchange means a telecommunications exchange and includes the land, buildings and facilities (within the meaning of section 7 of the *Telecommunications Act 1997* (Cth)) that comprise or form part of the exchange.

Exchange Service Area or *ESA* has the meaning given to that phrase by the Australian Communications Industry Forum Limited definition in ACIF C559:2006, Part 1.

Final Decision means the written statement setting out the ACCC's final decision titled '*Telstra's domestic transmission capacity service exemption applications – final decision and class exemption*' dated 24 November 2008.

Melbourne Metro Exemption ESAs means the ESAs set out in Item 6(6) of this Determination.

Perth Metro Exemption ESAs means the ESAs set out in Item 6(7) of this Determination.

Specified Class of Carriage Service Provider means the class of carriage service provider specified in Item 5 of this Determination.

Specified Class of Carrier means the class of carrier specified in Item 4 of this Determination.

Sydney Metro Exemption ESAs means the ESAs set out in Item 6(4) of this Determination.

Telstra means Telstra Corporation Limited (ACN 051 775 556).

4. Specified class of carrier

The class of carrier which is specified for the purpose of this Determination is the class of all carriers except Telstra.

Note: Telstra has been granted individual exemptions in Individual Exemption Order No. 7 of 2008, Individual Exemption Order No. 8 of 2008, Individual Exemption Order No. 9 of 2008 in similar terms to this class exemption.

5. Specified class of carriage service provider

The class of carriage service provider which is specified for the purpose of this Determination is the class of all carriage service providers except Telstra.

Note: Telstra has been granted individual exemptions in Individual Exemption Order No. 7 of 2008, Individual Exemption Order No. 8 of 2008, Individual Exemption Order No. 9 of 2008 in similar terms to this class exemption.

6. Exemption

Each member of the Specified Class of Carrier and each member of the Specified Class of Carriage Service Provider is exempt from the standard access obligations set out in section 152AR of the Act in respect of the supply of DTCS :

Capital-regional routes

- (1) between a transmission point in Sydney and a transmission point in any of the following regional centres: Campbelltown, Gosford, Coffs Harbour and Goulburn;

- (2) between a transmission point in Brisbane and a transmission point in any of the following regional centres: Townsville, Rockhampton, Bundaberg and Maryborough;
- (3) between a transmission point in Adelaide and a transmission point in Port Augusta.

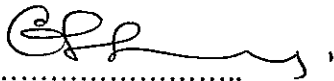
Inter-exchange transmission (metropolitan areas)

- (4) in Sydney between transmission points located at an Exchange in any of the following ESAs: Ashfield, Balgowlah, Bankstown, Blacktown, Burwood, Campsie, Carramar, Castle Hill, Chatswood, Coogee, Cremorne, East, Eastwood, Edgecliff, Epping, Glebe, Granville, Harbord, Homebush, Hornsby, Hurstville, Kensington, Kingsgrove, Kogarah, Lakemba, Lane Cove, Lidcombe, Liverpool, Mascot, Mosman, Newtown, North Parramatta, North Ryde, North Sydney, Parramatta, Pendle Hill, Pennant Hills, Petersham, Randwick, Redfern, Revesby, Rockdale Rydalmere, Ryde, Seven Hills, Silverwater, St Leonards, Undercliffe, Waverley.
- (5) in Brisbane between transmission points located at an Exchange in any of the following ESAs: Paddington, South Brisbane, Toowong, Valley, Woolloongabba.
- (6) in Melbourne between transmission points located at an Exchange in any of the following ESAs: Ascot, Brunswick, Caulfield, Coburg, Elsternwick, Footscray, Heidelberg, Malvern, Moreland, North Melbourne, Port Melbourne, Preston, Richmond, South Melbourne, St Kilda, Toorak
- (7) in Perth between transmission points located at an Exchange in the ESAs South Perth and Subiaco

Inter-exchange transmission (CBD areas)

- (8) in Sydney between transmission points located at an Exchange in any of the following ESAs: City South, Dalley, Haymarket, Kent and Pitt.
- (9) in Brisbane between transmission points located at an Exchange in any of the following ESAs: Charlotte, Edison and Spring Hill.
- (10) in Adelaide between transmission points located at an Exchange in any of the following ESAs: Flinders and Waymouth.
- (11) in Melbourne between transmission points located at an Exchange in any of the following ESAs: Batman, Exhibition and Lonsdale.
- (12) in Perth between transmission points located at an Exchange in the ESAs Bulwer, Pier and Wellington.
- (13) in Sydney between transmission points located at an Exchange in
 - i. any of the following ESAs: City South, Dalley, Haymarket, Kent and Pitt; and
 - ii. any of the Sydney Metro Exemption ESAs

- (14) in Brisbane between transmission points located at an Exchange in
 - i. any of the following ESAs: Charlotte, Edison and Spring Hill; and
 - ii. any of the Brisbane Metro Exemption ESAs
- (15) in Melbourne between transmission points located at an Exchange in
 - i. any of the following ESAs: Batman, Exhibition and Lonsdale; and
 - ii. any of the Melbourne Metro Exemption ESAs.
- (16) in Perth between transmission points located at an Exchange in
 - i. any of the following ESAs: Bulwer, Pier and Wellington; and
 - ii. any of the Perth Metro Exemption ESAs.



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Graeme Julian Samuel
Chairman

DATED this 25th day of November 2008