

Commonwealth of Australia

Telecommunications Act 1991

**Telecommunications (Public
Mobile Licences)
Declaration (No. 1) of 1991**

MCL 1/1991

I, KIM CHRISTIAN BEAZLEY, Minister of State for Transport and Communications, declare under section 64 of the *Telecommunications Act 1991* that all public mobile licences are subject to the conditions specified in this declaration.

Dated 22/11 1991.



Minister of State for Transport and Communications

Citation

1.1 This declaration may be cited as the Telecommunications (Public Mobile Licences) Declaration.

Interpretation

2.1 In this declaration, in each declaration made under section 64 of the Act in relation to public mobile licences and in each public mobile licence, unless the contrary intention appears:

“air-time” means timed use of a public mobile telecommunications service that is provided by a network operated by a public mobile carrier;

“AMPS” means Advanced Mobile Phone System;

“AOTC” has the same meaning as in the *Australian and Overseas Telecommunications Corporation Act 1991*;

“call charge recording” means call event recording information sufficient to enable:

- (a) the determination of charges automatically; and
- (b) the production of itemised billing showing the individual charge for each timed call;

“calling line identification” means a facility which enables the calling number to be identified and forwarded through a network ;

“CCITT Recommendations” means the E500, E600 and E700 series of recommendations contained in the publication of the International Telecommunications Union known as the “CCITT Blue Book” as amended and in force on the day on which this declaration comes into force;

“customer” means a customer of a licensee or a nominated carrier;

“digital facilities” means facilities:

- (a) comprising all or part of a mobile telecommunications network, other than an AMPS network; and
- (b) which employ digital encoding on the radio path;

“directory assistance services” means assistance provided by an operator when a customer wishes to locate a telephone number without using a telephone directory;

“directories purposes” means purposes relating to the preparation or publication of a telephone directory;

“emergency call number” means 000, or another emergency number which AUSTEL specifies in writing to the licensee, which, when called by a customer gives the customer access to emergency services;

“exchange access facility” means a facility connecting a customer’s equipment to an exchange of the licensee or another carrier;

“network” has the same meaning as in section 137 of the Act;

“nominated carrier”, in relation to a licensee, means each general or mobile carrier other than the licensee;

“operations support systems” means systems that provide information relevant to the management of interconnection to or use of a network of the licensee and a network of a nominated carrier, including, but not limited to:

(a) fault and status reporting ; and

(b) monitoring and testing of network reconfiguration systems;

“prescribed charge”, in relation to the provision of a service, facilities or information by a licensee to a nominated carrier, means an amount agreed between the licensee and the nominated carrier, or, failing agreement, as AUSTEL determines under section 154 of the Act;

[NOTE: If section 140 of the Act applies in relation to the provision of the service, facilities or information, the amount of the prescribed charge must be an amount that is consistent with any principles determined by the Minister under subsection 140 (1) of the Act.]

“raw data for directories purposes”, in relation to a licensee’s customer, means the customer’s name, address and telephone number used by the licensee’s service order system, but does not include the name, address and telephone number of:

(a) a customer whose telephone number is regarded as an unlisted telephone number; or

(b) a customer of a mobile carrier who has not requested that his or her telephone number be included in the telephone directory;

“the Act” means the *Telecommunications Act 1991*;

“traffic flow information”, in relation to a nominated carrier, means:

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- (a) information in sufficient detail to enable the nominated carrier to derive the statistics required to ascertain and quantify the volume of telecommunications traffic carried along routes within a network of the licensee; or
- (b) information in sufficient detail to enable the nominated carrier to derive the statistics required to ascertain and quantify the proportion of this traffic which is accredited to the nominated carrier; or
- (c) information of a type defined in the CCITT Recommendations required for network planning, operation or real-time management.

[NOTE: It is intended that requests by a nominated carrier for information from the licensee relating to existing and future networks of the licensee (whether related to traffic intensity, traffic dispersion or network congestion) be stated in terms of the principles and definitions contained in the CCITT Blue Book, particularly Volume II, Fascicle II.3, Part II. In the case of teletraffic, CCITT Recommendations E500 and E600 are to be used.]

2.2 Notes in this declaration, in any other declaration made under section 64 of the Act in relation to public mobile licences or in a public mobile licence are for information only and are not part of the declaration or licence.

Terms and conditions for interconnection

3.1 For the purposes of subsection 137 (2) of the Act, a licensee must permit interconnection of a nominated carrier's network facilities with the licensee's networks.

3.2 For the purposes of section 137 of the Act, the licensee must permit the carriage across the licensee's network of communications to or from facilities interconnected with that network.

[NOTE: Subsection 137 (2) of the Act states that a carrier has the right to interconnect its facilities to another carrier's network on such terms and conditions as the carriers agree, or failing agreement, as AUSTEL determines.]

3.3 If the facilities of a nominated carrier are interconnected with a network of a licensee, the licensee must take all reasonable steps to ensure that the nominated carrier receives interconnection, traffic carriage and fault detection of a technical and operational quality and timeliness that is equivalent to that which the licensee provides to itself.

Billing information for nominated carrier.

[NOTE: The provisions of this clause are supplementary access conditions under section 138 of the Act.]

4.1 When reasonably requested to do so by a nominated carrier, a licensee must provide that nominated carrier with billing information in connection with matters associated with, or incidental to, the supply by the nominated carrier of domestic or international services by means of telecommunications services provided by the licensee (including air-time acquired from the licensee).

4.2 Billing information is to be provided on a timely basis to a nominated carrier at the prescribed charge and must include, but is not limited to, comprehensive details of:

- (a) the customer identification number of the nominated carrier's customer who originates a call; and
- (b) the number to which the call was made; and
- (c) the time of commencement of the call; and
- (d) the duration of the call, including details of holding time and conversation time; and
- (e) the day on which the call was made; and

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- (f) if requested by the nominated carrier in relation to a call other than a local call—the fee charged by the licensee for use of its network to accommodate the call; and
- (g) routing information relating to the point of interconnection at which calls from a nominated carrier's network enter or leave the licensee's switched network; and
- (h) if:
 - (i) requested by the nominated carrier; and
 - (ii) it is possible for the licensee to provide it; and
 - (iii) the customer becomes a customer of the nominated carrier because he or she selected a particular access code;
the name, customer service address and billing address of the nominated carrier's customer who originated the call; and
- (i) the main billing number used by the customer if it is not the same number as the number referred to in paragraph (a); and
- (j) the relevant cell sites used in the course of a call originated by or terminating with a customer of the nominated carrier.

Access to network information

[NOTE: The provisions of this clause are supplementary access conditions under section 138 of the Act.]

5.1 To enable a nominated carrier to undertake network planning, maintenance and reconfiguration, a licensee must provide reasonable access for each nominated carrier who acquires telecommunications services from the licensee to information from the licensee's operations support systems and traffic flow information.

5.2 Information requested by a nominated carrier under subclause 5.1 is to be made available to the nominated carrier by the licensee as soon as practicable.

5.3 If necessary for the purposes referred to in subclause 5.1, the licensee must give a nominated carrier reasonable access to information contained in its databases relating to the manner in which the licensee's network treats calls of a particular kind.

5.4 Without limiting the generality of subclause 5.1, a licensee must provide each nominated carrier who acquires telecommunications services from the licensee with timely and detailed network planning information sufficient to enable the nominated carrier to undertake planning for the nominated carrier's own network including, but not limited to information relating to:

- (a) the volume and characteristics of traffic being offered by the licensee to a network of the nominated carrier; and
- (b) the network performance standards (if any) that have been set by the licensee.

5.5 Without limiting the generality of subclause 5.1, to enable the nominated carrier to undertake forward planning for its own network, a licensee must provide each nominated carrier who acquires telecommunications services from the licensee with timely and sufficiently detailed information relating to likely changes to facilities on a network of the licensee which will affect the completion success rate of calls offered by the nominated carrier.

5.6 A licensee must provide each nominated carrier whose facilities are interconnected with a network of the licensee with timely

and sufficiently detailed information relating to:

- (a) conditions affecting the quality of service experienced by customers of the nominated carrier; and
- (b) localisation of network conditions affecting traffic offered by the nominated carrier to the licensee's network; and
- (c) routing information allowing the nominated carrier to determine in which network calls have failed; and
- (d) identification of switching or other equipment or facilities in each of the licensee's networks which contribute to a level of uncompleted calls, affecting the nominated carrier's offered traffic, beyond a threshold agreed by the licensee and the nominated carrier and consistent with terms used in the relevant CCITT Recommendations; and
- (e) periodic summaries, in relation to a nominated carrier's traffic, of unsuccessful call ratios across the licensee's network categorised by cause of call failure and including separate identification of network difficulties and congestion; and
- (f) network control actions taken by the licensee which would affect the completion success rate of calls offered to the licensee by nominated carriers; and
- (g) any other relevant activity of the licensee.

5.7 Information provided by the licensee to a nominated carrier under this clause is to be provided at the prescribed charge.

5.8 If, for the purposes of this clause, a nominated carrier requests a licensee to consult with the nominated carrier about proposed modifications to, or reconfiguring of, the licensee's network, the licensee must, on such terms and conditions as are agreed between the licensee and the nominated carrier or, failing agreement, as AUSTEL determines under section 154 of the Act, consult with the

nominated carrier before modifying or reconfiguring the licensee's network.

5.9 A licensee is not required to provide a nominated carrier with information under this clause unless the nominated carrier has in place appropriate security procedures.

5.10 For the purposes of subclause 5.9, a reference to "appropriate security procedures" is a reference to procedures:

- (a) agreed between a licensee and the nominated carrier; or
- (b) failing that agreement — determined by AUSTEL;

designed to protect the confidentiality of the information referred to in that subclause.

Access to supplementary services, facilities and infrastructure

[NOTE: The provisions of this clause are supplementary access conditions under section 138 of the Act.]

6.1 To give effect to the objects of Part 8 of the Act and to enable a nominated carrier:

- (a) to provide competitive facilities and services; and
- (b) to establish its own facilities;

the licensee must, if it is reasonable to do so, give the nominated carrier access to any facilities owned, maintained or operated by the licensee to which the nominated carrier requests access.

6.2 The facilities referred to in subclause 6.1 include, but are not limited to:

- (a) power poles and radio transmission facilities used by the licensee for the provision of telecommunications services; and

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- (b) land or buildings or other structures erected in, on or over land where a facility is located.

6.3 For the purposes of subclause 6.1 the licensee is not required to give a nominated carrier access to any of the licensee's network facilities unless the facilities:

- (a) were in place on 30 June 1991; or
- (b) were not in place on 30 June 1991 but that were not obtained after that date by the licensee solely by means of commercial negotiation.

6.4 For the purposes of subclause 6.1 the licensee is not required to give a nominated carrier access to any of the licensee's network facilities unless:

- (a) the nominated carrier's request is reasonable; and
- (b) the nominated carrier gives the licensee reasonable notice that the nominated carrier requires that access; and
- (c) the access is to be provided only for the purposes referred to in that subclause; and
- (d) the nominated carrier pays the prescribed charge.

Provision of raw data for directories purposes

7.1 If a nominated carrier requests a licensee to provide raw data for directories purposes relating to the licensee's customers, or for the production of an electronic telephone directory or the provision of directory assistance services, the licensee must provide the nominated carrier with that data as soon as practicable after it is obtained by the licensee.

7.2 Raw data for directories purposes provided to a nominated carrier is only to be provided:

- (a) for directories purposes, for the production of an electronic telephone directory or for the provision of directory assistance services; and
- (b) for the prescribed charge; and
- (c) in accordance with the Information Privacy Principles set out in section 14 of the *Privacy Act 1988* as if the licensee were an agency within the meaning of that Act.

7.3 A request under subclause 7.1 may be a single request or part of a continuing arrangement between the nominated carrier and the licensee.

7.4 In spite of subclause 7.1, raw directories data provided to a nominated carrier by a licensee under this clause must only include details of customers of the licensee who request that their mobile numbers be included in the telephone directory concerned.

Itemised billing

8.1 A licensee must provide itemised billing for all of its customers as soon as practicable, and, in any case, not later than 30 June 1997.

8.2 In this clause, “**itemised billing**” means the provision by the licensee to each of the licensee’s customers of a bill that shows the following details for each call that is not regarded as a local call:

- (a) the date on which the call is made;
- (b) the number to which the call is made;
- (c) the duration of the call;
- (d) the charge applicable to the call;
- (e) the customer’s identification number.

Carrier indemnity

9.1 A licensee may enter into an agreement with a nominated carrier to the effect that the nominated carrier will indemnify the licensee against any liability to the nominated carrier's customers or third parties arising from

- (a) the interconnection of networks of the licensee and the nominated carrier; and
- (b) the carriage of communications across networks of the licensee and the nominated carrier; and
- (c) the provision of supplementary access to services, facilities and infrastructure of the licensee and of the nominated carrier.

[NOTE: It is not intended that this provision affect any obligation a licensee would have had in the absence of an agreement referred to in this clause.]

Compliance with Australian legislation.

[NOTE: Each licence is subject to the provisions of the *Telecommunications Act 1991* and that Act includes certain conditions to which the licence is subject — see especially sections 62,, 74, 76, 245 and 292.]

10.1 A licensee must not provide telecommunications services in contravention of a law in force in the Commonwealth or, subject to regulations made under section 116 of the Act, a law in force in a State or Territory in which the services are supplied.

10.2 The obligations of a licensee under the licensee's licence are additional to, and do not derogate from, obligations imposed by or under a law in force in the Commonwealth or, subject to regulations made under section 116 of the Act, a law in force in a State or Territory.

10.3 A licensee must:

- (a) exercise its rights and powers, and perform its duties, under the licence; and
- (b) otherwise act;

in a way that is consistent with its obligations under any relevant law in force in the Commonwealth or, subject to regulations made under section 116 of the Act, a law in a State or Territory.

Sensitive information--AUSTEL to arbitrate

11.1 If a licensee is required, by a condition to which the licensee's licence is subject, to give a nominated carrier information that the licensee regards as commercially sensitive, the licensee may withhold the information and must tell the nominated carrier promptly that this has been done.

11.2 If AUSTEL requests that the information that the licensee has withheld be given to AUSTEL, the licensee must give the information to AUSTEL.

11.3 If AUSTEL tells the licensee that, having considered the circumstances of the case, it considers that it is not reasonable for the licensee to withhold the information from a nominated carrier, the licensee must give the nominated carrier the information as soon as practicable.

11.4 If AUSTEL tells the licensee that, having considered the circumstances of the case, it considers that it is not reasonable for the licensee to withhold information of a particular kind from a nominated carrier, the licensee must not withhold information of that kind from the nominated carrier.

Delay in introduction of digital facilities

12.1 A licensee must not use digital facilities to provide a service to the public under the licensee's licence until:

- (a) 1 April 1993; or
- (b) if all of the holders of public mobile licences agree to an earlier date- that date.

12.2 Nothing in subclause 13.1 precludes a licensee from proceeding with engineering trials of digital facilities.

Volume discounts for AMPS air-time

13.1 Until 31 December 1995, a licensee that provides services using an AMPS network must not:

- (a) give bulk volume discounts to a person other than a nominated carrier in excess of 5% for AMPS air-time; or
- (b) enter into a contract with a person other than a nominated carrier for the purchase of bulk AMPS air-time for a period that exceeds 12 months in duration.

Industry development

14.1 Each licensee must maintain and implement a plan for the development of the Australian telecommunications supply and information industries in conjunction with its business.

14.2 Each licensee must submit its plan to the Minister:

- (a) in full; and
- (b) with all related supporting documents; and
- (c) on a commercial-in-confidence basis; and
- (d) as soon as practicable after the licensee is granted its licence.

14.3 Each licensee must publish and make available to the public a summary of the plan as soon as practicable after it is submitted to the Minister.

14.4 The summary of the plan must be as detailed as practicable, but, with the consent of the Minister, may exclude reference to aspects of the plan that are commercially sensitive.

[NOTE: The Minister will not unreasonably withhold consent.]

14.5 The licensee must notify the Minister promptly of any significant variations to its plan and of any significant development that is likely to affect the implementation of the plan.

14.6 Each licensee must report to the Minister, not later than 3 months after the end of each financial year that ends before 1998, on progress the licensee has made in implementing the plan.

14.7 The licensee must have due regard to any views of the Government expressed to it by the Minister on the licensee's progress in implementing the plan.

14.8 The licensee must notify the Minister promptly of any action it takes, or proposes to take, in response to those views.

14.9 In this clause, "**Minister**" means the Minister of State for Industry, Technology and Commerce.