



REVIEW OF STANDARD TERMS DETERMINATION UNDER SECTION 30R TELECOMMUNICATIONS ACT 2001

Introduction

The Telecommunications Act 2001 (Act) provides several mechanisms to amend all or part of a Standard Terms Determination (STD), including a:

- review under section 30R;
- residual terms determination under section 30ZB;
- pricing review determination under section 51;
- clarification under section 58; and
- reconsideration under section 59.

This is a brief overview of the review provisions in section 30R of the Act. The note below sets out the powers in section 30R, a brief explanation of likely key steps in the process, and the options available to the Commission.¹ This note provides generic information and should not be relied upon as binding or as legal advice.

Review of Standard Terms Determination

Section 30R allows the Commission, on its own initiative, to commence a review at any time of all or any of the terms specified in a STD. The Commission is not obliged to undertake a review at any time.

After review, the Commission may replace an STD, or vary, add, or delete any of its terms, if it considers it necessary to do so. The review can also address aspects of a designated access service in Subpart 1, Part 2 of the Act or a specified service in Part 3 of the Act (Service) not covered in an initial STD and update the terms of an STD to reflect regulatory or technological change. The Commission may specify how and when a replacement STD, or a variation, addition or deletion of terms specified in the determination takes effect in relation to the initial STD and any relevant residual terms determination. The Commission will give public notice of the result of the review.

¹ Please note, the Commission retains its discretion in relation to all matters. If an alternative mechanism under the Act is more appropriate because of the specific issue in question, then the Commission may decide that mechanism be preferred. For example, it would be inappropriate to address a final pricing principle as part of a review under 30R.

Initiating a Review

Only the Commission may initiate a review under section 30R(1) - which may occur in response to its own monitoring, research and analysis.

However, parties are also encouraged to discuss with the Commission whether issues of concern could be dealt with by a review under section 30R. If a party wishes to bring a matter to the Commission's attention for review, the party should provide sufficient information to enable the Commission to make an informed decision regarding whether to initiate a review. Such information would include:

- the reasons that, given the purpose of the Act, the Commission should review any, or all the terms of the STD;
- alternative wording of the terms on which the applicant considers the Service must be supplied under the STD; and
- justification for each term proposed.

Manner and Timeframe of Review

The Commission is required to:

- (a) consult all parties to the determination on the review;
 - (b) give public notice² of the commencement of the review;
 - (c) include in the public notice under paragraph (b) the closing date for submissions;
- and
- (d) give public notice of the result of the review.

Apart from these requirements, the Commission may conduct the review in a manner and within a timeframe, as the Commission thinks fit. This enables the Commission to assess the appropriate form and degree of consultation on a case by case basis.³ However, the Commission will give notice in the Government Gazette and on its website; and will usually issue a media release and write to industry participants.

In addition, if there is unanimous agreement of the Telecommunications Carriers Forum for a particular change, the consultation process may be very short and completed quickly. There is no specific requirement in the Act to issue a draft determination but the Commission may or may not opt to do so, depending on the circumstances.

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² The Commission gives public notice in the Government Gazette and on the Commission's website.

³ This can be contrasted with the process under section 59(3) of the Act which requires that a reconsideration determination follow the same process as followed for the initial determination.