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Statutory Rules 1997 No. 350 as amended		
made under the		
Telecommunications Act 1997		
This compilation was prepared on 21 December 2001 taking into account amendments up to SR 2001 No. 337		
Prepared by the Office of Legislative Drafting, Attorney-General's Department, Canberra		
I, General the Honourable Sir Peter Cosgrove AK MC (Ret'd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.		

Dated 2018

Peter Cosgrove Governor-General

By His Excellency's Command

Mitch Fifield [DRAFT ONLY—NOT FOR SIGNATURE]

Minister for Communications and the Arts

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Telecommunications (Arbitration) Regulations

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Part 1 Preliminary

Regulation 4

(a) the Telecommunications Act 1997-:	Formatted: paragraph,a
(b) the Telecommunications (Consumer Protection and Service	
<u>Standards) Act 1999.</u>	
Schedule 2	
Each instrument that is specified in Schedule 2 to this instrument is	
amended or repealed as set out in the applicable items in that	
Schedule, and any other item in that Schedule has effect according	
to its terms.	
Definitions	
In this instrument:	
<i>arbitration</i> means arbitration of a dispute by the ACCC under:	Formatted: Font: Bold, Italic
(a) section- 267, 269, 335, 351 <u>, 372M</u> or 462 of the	Formatted: Definition,dd
Telecommunications Act; or	
(b) clause-18, 27, 29, <u>36</u> or <u>3646</u> of Schedule-1 to the	
<u>Telecommunications</u> Act; or	
(c) clause_5 or 8 of Schedule_2 to the <u>Telecommunications</u> Act:	Formatted: Definition,dd
<u>or</u>	Formatted: Font: Bold
(d) section 149 or 151 of the Consumer Protection Act.	Formatted: Font: Bold, Italic
<i>Consumer Protection Act</i> means the <i>Telecommunications</i>	Formatted: Font: Bold, Italic
(Consumer Protection and Service Standards) Act 1999.	Formatted: Font: 8 pt
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<i>determination</i> means a determination of a dispute.	pt, Border: Top: (Single solid line, Auto, 0.75 pt Line width)
<i>dispute</i> means a dispute notified under regulation	///
3. <u>subsection 6(1).</u>	Formatted: Default Paragraph Font, Font: Times New Roman, 9 pt, Italic
<i>member</i> , in relation to the ACCC, includes an associate member of	Formatted: Default Paragraph Font, Font: Times New
the ACCC.	Roman, 9 pt
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<i>party</i> means a person or body who, under regulation 5 section 8, is	Formatted: Right, Line spacing: At least 0 pt
a party to an arbitration.	Formatted Table
service, means:	Formatted: Font: Times New Roman
(a) access to a service that is required to be provided under:	Formatted: Font: Times New Roman, Not Italic
(i) section 267 of the Act; or	Formatted: Font: 9 pt, Italic
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4. Telecommunications (Arbitration) Regulations 1997	/
(Arbitration) Regulations 2018	

Preliminary Part 1	
Regulation 5	
(ii) clause-4 or 7 of Schedule-2 to the <u>Telecommunications</u> <u>Act; or</u>	
(ii) section 149 of the Consumer Protection Act; or	Formatted: paragraph(sub),aa
(b) access to a carriage service, facility or network that is required to be provided under:	
(i) section <u>269_372L</u> of the <u>Telecommunications</u> Act; or	
(ii) clause-17, 33, 34 <u>.35</u> or <u>3546</u> of Schedule-1 to the <u>Telecommunications</u> Act; or	
(iii) section 151 of the Consumer Protection Act; or	
 (c) a service that is required to be provided under section-335 or 351 of the <u>Telecommunications</u> Act; or 	Formatted: paragraph,a
(d) compliance with <u>a requirement of a the</u> numbering plan <u>mentioned inthat is required under</u> section-462 of the Telescommunications. A stear	
Telecommunications Act; or (e) access to information that is required to be provided under	
clause_21, 22, 23, 24 or 25 of Schedule_1 to the	
<u>Telecommunications</u> Act; or	
(f) consultation that is required under clause-29 of Schedule 1 to	
the <u>Telecommunications</u> Act.	
service provider, means a person who is required, under the	Formatted: Font: Italic
Telecommunications Act or the Consumer Protection Act, to	
provide a service.	
service seeker, means a person-or body:	Formatted: Font: Bold, Italic
(a) seeking to make or vary an agreement about provision of a	Formatted Space Reference & pt. Line oppoint. At least 0
service to the person- or body ; or (b) whose service provider has changed, or proposes to change,	Formatted: Space Before: 6 pt, Line spacing: At least 0 pt, Border: Top: (Single solid line, Auto, 0.75 pt Line width)
the terms and conditions on which a service is provided by	Formatted: Font: 8 pt
the <u>service</u> provider to the person or body .	Formatted: Font: Times New Roman
<i>Telecommunications Act</i> means the <i>Telecommunications Act</i> 1997.	Formatted: Default Paragraph Font, Font: Times New Roman, 9 pt
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Part 2 Notification of disputes

Regulation 3

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<u>6</u> Notification of disputes	Formatted: ActHead 5,s
(1) A service seeker or <u>service</u> provider may notify the ACCC in writing that a dispute exists if theythe service seeker and the <u>service provider</u> are unable to agree about the terms and conditions on which a service is, or is to be, provided.	s
(2) The following are examples of things on which a service seeker and service provider might disagree:(a) the price, or the method of establishing the price, at which a service is provided;	
 (b) whether a previous determination should be varied. (3) NoticeNotification of a dispute about a service must include the following information: 	
 (a) the name of the person notifying the dispute (the <i>notifier</i>) and, if the notifier is not an individual, the name and address of an individual who represents the notifier; (b) the notifier's address for the delivery of documents in relation to the notification; 	Formatted: Font: Not Bold
 (c) whether the notifier is the service seeker or <u>service</u> provider and: (c) if d = aif is the service is the service seeker or service is the service seeker or service provider and service seeker or service seeker or service provider and service seeker or service seeker or service provider and service seeker or service seeker or service provider and service seeker or service seeker or service provider and service seeker or service seeker or service provider and service seeker or service seeker or service provider and service seeker or service seeker or service provider and service seeker or service seeker or service provider and service seeker or service seeker or service seeker or service provider and service seeker or service seeker or service provider and service seeker or service seeker or service provider and service seeker or service service seeker or service seeker or service servic	Formethed Forth Oat
 (i) if the notifier is the service seeker—the name and address of the service provider;<u>or</u> (ii) if the notifier is the service provider—the name and address of the service seeker: 	Formatted: Font: 8 pt Formatted: Space Before: 6 pt, Line spacing: At leas pt, Border: Top: (Single solid line, Auto, 0.75 pt Line width)
 (d) the provision of the <u>Telecommunications Act or the</u> <u>Consumer Protection</u> Act that requires the service; 	Formatted: Default Paragraph Font, Font: Times New Roman, 9 pt, Italic
(e) a description of the dispute, including:	Formatted: Default Paragraph Font, Font: Times New Roman, 9 pt
(i) whether the dispute is about varying existing access arrangements and, if it is, a description of the	Formatted: Line spacing: At least 0 pt Formatted: Right, Line spacing: At least 0 pt
arrangements; and (ii) each aspect of the service on which the partiesservice	Formatted Table
seeker and service provider are able to agree; and	Formatted: Font: Times New Roman
(iii) each aspect of the service on which the partiesservice	Formatted: Font: Times New Roman, Not Italic
seeker and service provider are unable to agree;	Formatted: Font: 9 pt, Italic
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Regulation 7		
(f) a description of any effort that has been made to resolve the dispute.		
 (4) When it receives noticenotification of a dispute <u>about a service</u>, the ACCC must give written notice of the dispute <u>as follows</u>: (a) if the service seeker notified the dispute <u>to the service</u> 		
provider;- and (b) if the service provider notified the dispute— <u></u> to the service seeker;- and		
(c) if the ACCC considers that resolution <u>the determination</u> of the dispute may involve requiringrequire another person to do something <u>to the other person</u> ; and		
(d) to any other person whom the ACCC considers may wish to become a party.		
<u> </u>		
 (1) NoticeNotification of a dispute may only be withdrawn-only in the following manner: 	(Formatted: subsection, ss, Subsection, Don't keep with next
(a) if <u>by</u> the <u>service seekerperson who</u> notified the dispute— <u>the</u> service seeker may withdraw notice of the dispute <u>; and</u>		
(b) before the ACCC makes a determination;	(Formatted: paragraph,a
(b) if the service provider notified the dispute:		
(i) the service provider may withdraw notice of the		
dispute before the ACCC makes a determination; and	ĺ	Formatted: subsection,ss,Subsection
(ii) the service seeker may withdraw notice of the dispute given by the service provider after the ACCC issues a draft determination, but before it makes its final		Formatted: Space Before: 6 pt, Line spacing: At least 0 pt, Border: Top: (Single solid line, Auto, 0.75 pt Line width)
determination.		Formatted: Font: 8 pt
		Formatted: Font: Times New Roman
(2) Despite subparagraph (1) (b) (ii), if the service provider gave notice of a dispute about a variation of a determination, the		Formatted: Default Paragraph Font, Font: Times New Roman, 9 pt
service seeker cannot withdraw notice of the dispute by the	(Formatted: Line spacing: At least 0 pt
provider.	/ ////	Formatted Table
 (3) Withdrawal of noticea notification of a dispute must: (a) be <u>given</u> in writing to the ACCC; and 		Formatted: Default Paragraph Font, Font: Times New Roman, 9 pt, Italic
(b) include the following information:		Formatted: Font: Times New Roman, Not Italic
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Telecommunications (Arbitration) Regulations 1997Telecommunications (Arbitration) Regulations 2018

Part 2 Notification of disputes

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 (i) the name of the person withdrawing the notice; notification; 	
 (ii) whether the person withdrawing the noticenotification is the service seeker or service provider or seeker; 	
 (iii) a short description of the dispute-to which the notice relates;. 	
(iv) a reference to the relevant provision of subregulation (1) under which the person is withdrawing the notice.	
(4)(3) A person who gives notice of withdrawal to the <u>ACCCwithdraws a notification of a dispute</u> must give a copy of the <u>noticewithdrawal</u> to-:	
(a) if the person is the service seeker-orthe service provider who; or	
(b) if the person is a party to the service provider—the	Formatted: paragraph,a
disputeservice seeker.	
 (5) Notice (4) Withdrawal of a notification of withdrawala dispute takes effect when the noticewithdrawal is received by the ACCC. (65) The ACCC must give a copy of the notice to a withdrawal of a 	
<u>notification of a dispute to each</u> person (except the person who gave notice of the withdrawal ofto the dispute ACCC) to whom the	
ACCC gave notice of the dispute under	
subregulation 3-subsection 6(4).	Formatted: Font: 8 pt
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Regulation 7

Part3—Arbitration <u>of disputes</u>		
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 The parties to an arbitration are: (a) the service seeker; and (b) the service provider; and (c) if the ACCC considers that <u>the</u> determination of the dispute may require another person to do something—the other person; and (d) any other person who applies in writing to be made a party and is accepted by the ACCC as having a sufficient interest in the dispute. 		
(1) Unless notification of the dispute is withdrawn under section 7, or the ACCC terminates the arbitration under section 11, the ACCC must make a written determination.	•	Formatted: subsection,ss,Subsection
(1) For an arbitration (2) Before making a determination, the ACCC may be constituted by a member, or 3 members, must give a draft of the determination to each party.	L	
(3) When the ACCC- makes a determination it must:		Formatted: subsection,ss,Subsection
(2) If the Chairperson (a) give a copy of the ACCC is a member of determination to each party; and (b) include the ACCC reasons for the arbitration, the Chairperson		Formatted: paragraph,a Formatted: Space Before: 6 pt, Line spacing: At least 0 pt, Border: Top: (Single solid line, Auto, 0.75 pt Line width)
<u>must preside over the arbitration determination.</u>		Formatted: Font: 8 pt
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(3) If subregulation (2) does not apply, the Chairperson must nominate a member of the ACCC to preside over the hearing.	ŧ /	Formatted: Default Paragraph Font, Font: Times New Roman, 9 pt
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7 Determination of questions		Formatted Table
If the ACCC is constituted for an arbitration by 3 members of the ACCC, a matter must be decided according to the opinion of		Formatted: Default Paragraph Font, Font: Times New Roman, 9 pt, Italic
the majority of the members.	ˆ /////	Formatted: Font: Times New Roman, Not Italic
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Part 3 Arbitration of disputes

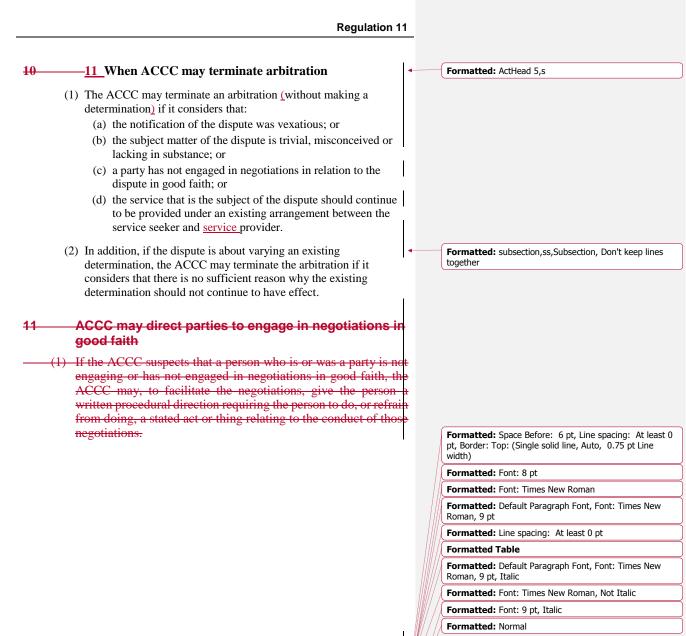
Regulation 8

}	—— <u>10</u> Matters that ACCC must take into account	4	Formatted: ActHead 5,s
	(1) The ACCC must take the following matters into account in making		
	a determination:		
	(a) the legitimate business interests of the parties, and the		
	parties' investment in facilities used to supply the relevant		
	service that is the subject of the dispute;		
	(b) the interests of all persons who have rights to use the service;		
	(c) the direct costs of providing access to the service;		
	 (d) the operational and technical requirements <u>necessary</u> for the safe and reliable operation of a telecommunications network, or facilities used to supply carriage services; 		
	(e) the economically efficient operation of a carriage service, a telecommunications network or a facility;		
	(f) whether the determination will promote the long-term		
	interests of end- <u>users</u> of carriage services or <u>of</u> services supplied by means of carriage services.		
	(2) For the purposes of paragraph- (1) - $()(f)$, whether a determination		
	will promote the long-term interests of end-users of carriage		
	services or of services supplied by means of carriage services is to		
	be determined in the same way as the question is determined for the purposes of Part XIC of the <i>Trade PracticesCompetition and</i>		
	<u>Consumer Act 19742010</u> .		Formatted: Font: Not Italic
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	Note—: See Trade Practicessection 152AB of the Competition and Consume Act 1974, s. 152AB2010	<u>-</u> //	Formatted: Font: 8 pt
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	(3) The ACCC may take into account any other matters that it		pt, Border: Top: (Single solid li width)
	considers relevant.		Formatted: Default Paragrap
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			Formatted: Default Paragrap
(1) Before making a determination, the ACCC must give a draf	ŧ /	Roman, 9 pt
	determination to the parties.		Formatted: Line spacing: At
(2) Unless a notice is withdrawn under regulation 4 or the ACCC	-	Formatted: Right, Line spacir
(terminates an arbitration under regulation 10, the ACCC must:		Formatted Table
	(a) make a written determination; and		Formatted: Font: Times New
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	(b) give a copy of the determination to each party; and	1////	Formatted: Font: 9 pt, Italic
	(c) include the reasons for the determination.		Formatted: Normal
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Arbitration of disputes Part 3

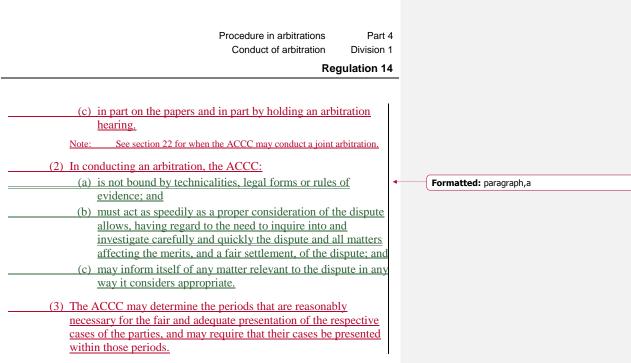


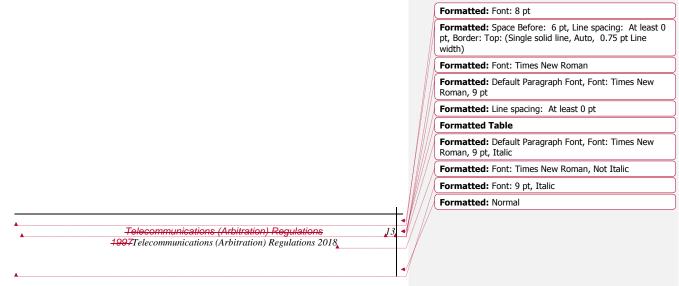
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Telecommunications (Arbitration) Regulations 1997Telecommunications (Arbitration) Regulations 2018 Part 4Procedure in arbitrationsDivision 1Conduct of arbitration

Regulation 12

(2) In deciding whether to give a direction under subregulation (1), Part 4— **Procedure in arbitrations Division 1—Conduct of arbitration** 12 Constitution of ACCC for arbitration (1) For the purposes of an arbitration, the ACCC may be constituted by a member, or 3 members, of the ACCC nominated in writing by the Chairperson of the ACCC. (2) If the Chairperson of the ACCC must have regard to: (a) any guidelines in force under subsection 152CT (6) is a member of Formatted: subsection, ss, Subsection the Trade Practices Act 1974, to ACCC for the extent that they are applicable; and purposes of an arbitration, the Chairperson must preside at the arbitration. (b) other relevant matters. (3) A person must not contravene a direction under subregulation (1). Penalty: 10 penalty units. (4 (3) If subsection (2) does not apply, the Chairperson must nominate Formatted: Font: 8 pt a member of the ACCC to preside at the arbitration. Formatted: Space Before: 6 pt, Line spacing: At least 0 pt, Border: Top: (Single solid line, Auto, 0.75 pt Line width) **13 Determination of questions** Formatted: Default Paragraph Font, Font: Times New Roman, 9 pt, Italic If the ACCC is constituted by 3 members of the ACCC for the Formatted: Line spacing: At least 0 pt purposes of an arbitration, a matter must be decided according to the opinion of the majority of the members. Formatted: Default Paragraph Font, Font: Times New Roman, 9 pt **14 Conduct of arbitration** Formatted: Right, Line spacing: At least 0 pt Formatted Table (1) The <u>ACCC may conduct an arbitration:</u> Formatted: Font: Times New Roman (a) on the papers; or Formatted: Font: Times New Roman, Not Italic (b) by holding an arbitration hearing; or Formatted: Font: 9 pt, Italic Formatted: Normal Telecommunications (Arbitration) Regulations 1997 Telecommunications 12 (Arbitration) Regulations 2018





Part 4Procedure in arbitrationsDivision 2Powers of ACCC in conducting arbitration

Regulation 15

Division 2—Powers of ACCC in conducting arbitration

15 Power to refer matters and give directions

The ACCC may do any of the following are examples of the kinds	Formatted: subsection,ss,Subsection
of procedural directions that may be given under subregulation	
(1): things for the purposes of an arbitration:	
(a) a direction requiring a party to give relevant information to	
1 or more other parties;	
(a) refer any matter to an expert and accept the expert's report as evidence:	
 (b) a direction requiringdirect a party to conduct research or investigations to obtain relevant information; 	Formatted: paragraph,a
 (c) <u>direct a direction requiringperson who is</u>, or was, a party to give relevant information to one or more other parties; 	
(d) direct a person not to impose unreasonable procedural	Formatted: paragraph,a
conditions on the party's participation in negotiationsdivulge.	
or communicate to anyone else, stated information that was given to the person for the purposes of an arbitration unless	
the person is permitted by the ACCC;	
(e) give any other such direction, and do any such thing, as is	
necessary or expedient to make a determination.	
Note: A person may commit an offence if the person does an act, or omits to	
do an act, that contravenes a direction under any of paragraphs (b) to	
(e) (see section 25).	Formatted: Font: 8 pt
16 Power to require person to give information or produce	Formatted: Space Before: 6 pt, Line spacing: At least 0 pt, Border: Top: (Single solid line, Auto, 0.75 pt Line width)
<u>documents</u>	Formatted: Default Paragraph Font, Font: Times New
(1) The ACCC may give a notice to a person under subsection (2) if	Roman, 9 pt, Italic
the ACCC has reason to believe that the person has information, or a document, relevant to an arbitration.	Formatted: Default Paragraph Font, Font: Times New Roman, 9 pt
(2) The ACCC men hyperities action since to the series show the	Formatted: Line spacing: At least 0 pt
(2) The ACCC may, by written notice given to the person, require the person:	Formatted: Right, Line spacing: At least 0 pt
(a) to give any such information to the ACCC; or	Formatted Table
(b) to produce any such document to the ACCC;	Formatted: Font: Times New Roman
for the purposes of the arbitration.	Formatted: Font: Times New Roman, Not Italic
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(3) The notice must:	Formatted: Normal
14. Telecommunications (Arbitration) Regulations 1997 Telecommunications	
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(Arbitration) Regulations 2018	•

Procedure in arbitrations Par Powers of ACCC in conducting arbitration Division		
Regulation	17	
 (a) specify the period (which must be at least 14 days after the notice is given to the person) within which the person is required to comply with the notice; and (b) specify the manner in which the person is required to comp with the notice; and (c) state the effect of section 26 (offence for failure to comply with a notice). Note: A person may commit an offence if the person fails to comply with notice (see section 26). 		
17 Power to summon person to give evidence and produce documents (1) The member of the ACCC who is presiding at an arbitration may for the purposes of the arbitration, summon a person to:		
 (3) A summons must be served on a person by: (a) delivering a copy of the summons to the person personally; and (b) showing the original of the summons to the person when the copy is delivered to the person. 	e <u>r</u>	Formatted: subsection,ss,Subsection
(d) a direction requiring a party <u>Note:</u> A person may commit an offence if the person fails to respond <u>comply with a</u> summons (see section 27).		Formatted: Font: 8 pt Formatted: Space Before: 6 pt, Line spacing: At least 0 pt, Border: Top: (Single solid line, Auto, 0.75 pt Line width)
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Part 4Procedure in arbitrationsDivision 3Arbitration hearings

Regulation 18

Division 3—Arbitration hearings

18 Conduct of arbitration hearings

(1) The ACCC may do any of the following things for the purposes of	
an arbitration hearing:	
(a) require evidence or argument to be presented in writing to	
another party's proposal:	
(b) decide the matters on which it will hear oral evidence or	
request argument;	
(c) hear and determine the dispute in relation the absence of a	
person who has been summoned to attend before the ACCC;	
(d) sit at any place;	
(e) adjourn to the any time and place of a meeting;	Formatted: paragraph,a
(2) The ACCC may determine that an arbitration hearing is to be	
conducted by:	
(a) telephone; or	
(b) closed-circuit television; or	
(c) any other means of communication.	Formatted: paragraph,a
(e) a direction requiring a party, or a representative of a party, to attend a mediation conference;	
(f) a direction requiring a party or a representative of a	Formatted: subsection,ss,Subsection
(f) a direction requiring a party, or a representative of a	Formatted: subsection,ss,Subsection Formatted: Font: 8 pt
party,19 Arbitration hearings to be in private (1) Subject to attend a conciliation conference.	
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Procedure in arbitrations Part 4		
Arbitration hearings Division 3		
Regulation 21		
(4) In giving directions under subsection (3), the member presiding must have regard to the wishes of the parties and the need for commercial confidentiality.		
20 Right to representation		
A party may appear in person at an arbitration hearing, or be represented by someone else.		
<u>21</u> Evidence on oath or affirmation	Formatted: ActHead 5,s	
(1) The ACCC may take evidence on oath for or affirmation at an arbitration.		
(2) An ACCC hearing and, for that purpose, a member for of the arbitration ACCC may administer the oath or affirmation.	Formatted: subsection,ss,Subsection	
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Part 4Procedure in arbitrationsDivision 4Joint arbitration of disputes

Regulation 13

13 Division 4—Joint arbitration of disputes

22 When joint arbitration may be conducted

(1) If:	
(a) the ACCC is arbitrating 2 or more disputes at a particular	
time; and	
(b) one or more matters are common to those disputes;	
the Chairperson of the ACCC may, by notice in writing, decide	
that the ACCC must conduct a joint arbitration of such of those	
disputes (the <i>nominated disputes</i>) as are specified in the notice.	
(2) The Chairperson may decide that the ACCC must conduct a joint	
arbitration of the nominated disputes only if the Chairperson	
considers this would be likely to result in the nominated disputes	
being resolved in a more efficient and timely manner.	
(3) Before deciding that the ACCC must conduct a joint arbitration of	
the nominated disputes, the Chairperson must give each party to	
the arbitration of each nominated dispute a notice in writing:	
(a) specifying what the Chairperson is proposing to do; and	
(b) inviting the party to make a written submission on the	
proposal to the Chairperson within 14 days after the notice is	
<u>given.</u>	
(4) The Chairperson must have regard to any submission so made in	Formatted: Space Before: 6 pt, Line spacing: At least 0
deciding whether the ACCC must conduct a joint arbitration of the	pt, Border: Top: (Single solid line, Auto, 0.75 pt Line
nominated disputes. The Chairperson may have regard to any other	width)
matter the Chairperson considers relevant.	Formatted: Font: 8 pt
23 Procedure in joint arbitration	Formatted: Default Paragraph Font, Font: Times New Roman, 9 pt, Italic
(1) Sections 12 to 21 and 25 to 31 apply to a joint arbitration in a	Formatted: Default Paragraph Font, Font: Times New Roman, 9 pt
corresponding way to the way in which they apply to a particular	Formatted: Line spacing: At least 0 pt
arbitration.	Formatted: Right, Line spacing: At least 0 pt
(2) The Chairperson of the ACCC may, for the purposes of the	Formatted Table
conduct of a joint arbitration, give written directions to the member	Formatted: Font: Times New Roman
of the ACCC presiding at the arbitration.	Formatted: Font: Times New Roman, Not Italic
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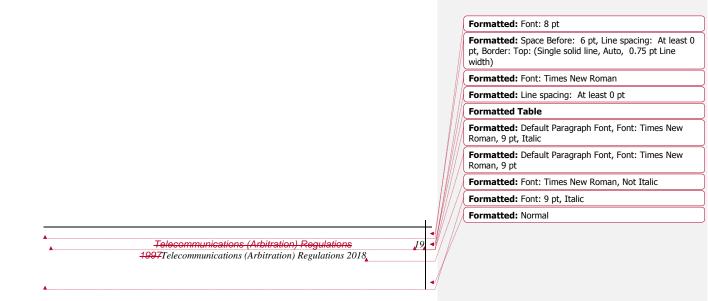
Procedure in arbitrations	Part 4
Joint arbitration of disputes	Division 4

Regulation 24

(3) The ACCC as constituted for the purposes of a joint arbitration of 2 or more disputes may have regard to any record of the proceedings of the arbitration of any of those disputes.

24 Determination of disputes

- (1) The ACCC as constituted for the purposes of the joint arbitration of 2 or more disputes may make a single determination that covers all of the disputes.
- - arbitration; and
 - (b) adopt any findings of fact made by the ACCC as constituted for the purposes of the joint arbitration.
 - Note: See also sections 9 and 10 in relation to the making of determinations



Part 4Procedure in arbitrationsDivision 5Offences

Regulation 25

Division 5—Offences

25 Contravention of a direction

A person commits an offence if:

(a)	the person	is given a	direction	n under	any of	paragraphs	15(b)
	to (e); and						

- (b) the person does an act or omits to do an act; and
- (c) the act or omission contravenes the direction.

Penalty: 10 penalty units.

26 Failure to comply with notice to give information or produce documents

A person commits an offence of strict liability if:

- (a) the person is given a notice under section 16; and
 - (b) the person fails to comply with the notice.

Penalty: 10 penalty units.

<u>27</u> Offences by witnesses

20

Failure to appear

 (1) A person commits an offence of strict liability if:
 (a) the person is served with a summons under section 17 to attend before the ACCC to give evidence; and
 (b) the person has not been excused, or released from further

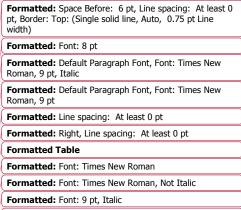
- attendance, by a member of the ACCC; and
- (c) the person fails to attend as required by the summons.

Penalty: 10 penalty units.

Failure to answer questions etc.

(2) A person commits an offence of strict liability if: (a) the person is served with a summons under section 17 to attend before the ACCC to give evidence; and (b) either:

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Procedure in arbitrations Part 4 Offences Division 5

Regulation 28

(i) the person fails to be sworn or to make an affirmation;	
or	
(ii) the person fails to answer a question that the person is	
required to answer by the ACCC.	
Penalty: 10 penalty units.	
Failure to produce document	
(3) A person commits an offence of strict liability if:	
(a) the person is served with a summons under section 17 to	
produce a document; and	
(b) the person fails to produce the document as required by the	
summons.	
Penalty: 10 penalty units.	
28 Intimidation etc.	
(1) A person (the <i>first person</i>) commits an offence if:	
(a) the first person engages in conduct that:	
(i) threatens, intimidates or coerces another person; or	
(ii) causes damage, disadvantage or loss to another person;	
and	
(b) the first person does so because the other person:	
(i) has attended, or proposes to attend, before the ACCC to	
give evidence at an arbitration hearing; or	Formatted: Font: 8 pt
(ii) has produced, or proposes to produce, a document to the <u>ACCC.</u>	Formatted: Space Before: 6 pt, Line spacing: At least 0 pt, Border: Top: (Single solid line, Auto, 0.75 pt Line
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Penalty: 10 penalty units.	Formatted: Font: Times New Roman
(2) Strict liability applies to the physical element in paragraph (1)(b)	Formatted: Line spacing: At least 0 pt
that the other person:	Formatted Table
(a) has attended, or proposes to attend, before the ACCC to give evidence at an arbitration hearing; or	Formatted: Default Paragraph Font, Font: Times New Roman, 9 pt, Italic
(b) has produced, or proposes to produce, a document to the ACCC.	Formatted: Default Paragraph Font, Font: Times New Roman, 9 pt
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Part 4Procedure in arbitrationsDivision 5Offences

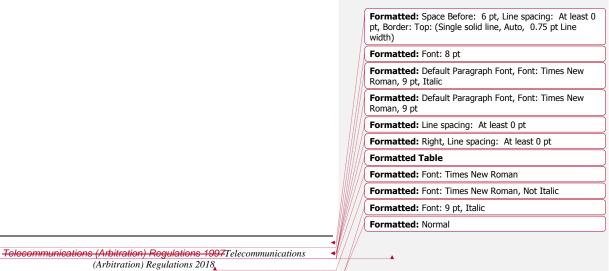
Regulation 29

22

29 Disturbing an arbitration hearing etc.

A person commits an offence if the person:
(a) insults, disturbs or uses insulting language towards a member
of the ACCC who is exercising powers, or performing
functions or duties, as a member of the ACCC for the
purposes of an arbitration hearing; or
(b) interrupts an arbitration hearing; or
(c) creates a disturbance, or participates in creating or continuing
a disturbance, in a place where an arbitration hearing is being
conducted.

Penalty: 10 penalty units.



Procedure in arbitrations	Part 4
Miscellaneous	Division 6

Regulation 14

Division 6—Miscellaneous			
<u>30</u> Parties may request ACCC to treat material as confidential	4	(Formatted: ActHead 5,s
 (1) A party may: (a) inform the ACCC that, in the opinion of the party, a stated part of a document contains confidential commercial information; and (b) request the ACCC not to give a copy of that part <u>of the document</u> to another party. (2) On receiving <u>athe</u> request, the ACCC must: (a) inform the other party that the request has been made and of the general nature of the matters to which the relevant part of the document relates; and (b) ask the other party whether it objects to the ACCC complying with the request. (3) If there is an objection to the ACCC complying with the request, the party having the objection may inform the ACCC of its objection and of the reasons for it. (4) The ACCC may decide not to give to the other party a copy of so much of the document as contains confidential commercial information that the ACCC considers should not be so given after considering: 		ļ	
 (a) the request; and (b) any objection; and (c) any further submissions that any party has made in relation to the request. 	2		Formatted: Font: 8 pt Formatted: Space Before: 6 pt, Line spacing: At least 0 pt, Border: Top: (Single solid line, Auto, 0.75 pt Line width) Formatted: Font: Times New Roman
 Other ACCC powers (1) The ACCC may: (a) refer any matter to an expert and accept the expert's report as evidence; and (b) direct a person not to divulge or communicate to anyon else stated information that was given to the person for at arbitration unless the person is permitted by the ACCC; and 	e +		Formatted: Default Paragraph Font, Font: Times New Roman, 9 pt Formatted: Line spacing: At least 0 pt Formatted Table Formatted: Default Paragraph Font, Font: Times New Roman, 9 pt, Italic Formatted: Font: Times New Roman, Not Italic Formatted: Font: 9 pt, Italic Formatted: Normal
Tolocommunications (Arbitration) Regulations 23 1997Telecommunications (Arbitration) Regulations 2018 23	•		

Part 4 Procedure in arbitrations		
Division 6 Miscellaneous		
Regulation 15		
(c) give any other such direction, and do any such thing, as necessary or expedient to determine a dispute.	is	
(2) Subregulation (1) has effect subject to any other provision these Regulations.	-of	
(3) A person must not contravene a direction under paragra (1) (b) or (c).	ph	
Penalty: 10 penalty units.		
1531 Parties to pay costs of arbitration	4	Formatted: ActHead 5,s
The ACCC may:		
(a) charge the <u>persons who are, or were,</u> parties to an arbitration	m	
for its the ACCC's costs in conducting the arbitration; and		
(b) apportion the amount of the charge between the parties those	e	
persons.	-	
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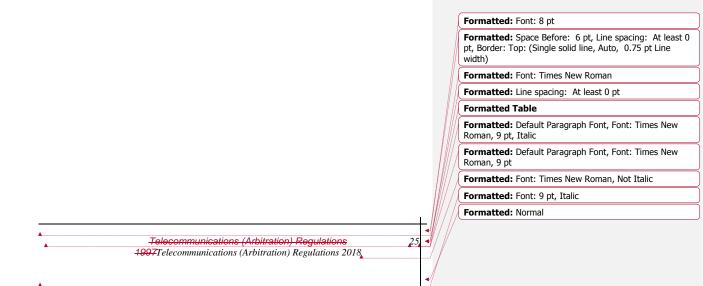
Regulation 32

Part 4—Part 5—Application, savings and transitional provisions

32 Definitions

In this Part:

commencement means the day this instrument commences.



Part 5 hearings

Regulation 16

old law means the Telecommunications	Formatted: Default Paragraph Font, Font: Bold, Italic
(Arbitration hearings	
16 ACCC may conduct arbitration hearings	
(1) The ACCC may:	
(a) conduct an arbitration hearing; and	
 (b) hear and determine the arbitration in the absence of a person who has been summoned to appear at the hearing; 	
(c) conduct the hearing at any place;	
(d) adjourn the hearing to any time and place.	
(2) Subregulation (1) has effect subject to any other	Formatted: Definition,dd
provision of these), Regulations 1997, as in force immediately	Formatted: Font: Italic
before commencement.	Tornacca, Fond. Idane
17 Summons	Formette de Conte Timore New Doment, Dalid
17 Summons	Formatted: Font: Times New Roman, Bold
(1) For an arbitration hearing, 33 Transitional—disputes	Formatted: Font: Times New Roman
notified before commencement	Formatted: FreeForm, Space Before: 12 pt
Despite the presiding member may:	
(a) summon a person to attendrepeal of the hearing; and	Formatted: subsection,ss,Subsection
(b) require the person to produce a document mentioned in the	Formatted: Font: 8 pt
(2) A summons must be in the form set out in theold law by	Formatted: Space Before: 6 pt, Line spacing: At least 0 pt, Border: Top: (Single solid line, Auto, 0.75 pt Line width)
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 (3) A summons must be served on a person by: (a) delivering a copy of the summons to the person personally; 	Formatted: Default Paragraph Font, Font: Times New Roman, 9 pt
and	Formatted: Line spacing: At least 0 pt
(b) showing the original of the summons to the person when the	Formatted: Right, Line spacing: At least 0 pt
copy is delivered to the person.	Formatted Table
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26 <u>Tolocommunications (Arbitration) Regulations 1997</u> Telecommunications	

Tolocommunications (Arbitration) Regulations 1997 Telecommunications (Arbitration) Regulations 2018

hearings	Part 5
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Regulation 20

(1) An arbitration bearing is to be conducted in private	
(1) An arbitration hearing is to be conducted in private.	
(2) However, if this instrument, the parties agree, a hearing, or part of a hearing, may be conducted in public.	
(3) The presiding member for an arbitration hearing conducted in private may give written directions about the persons who may be present at the hearing.	
(4) In giving directions, the presiding member must have regard to the wishes of the parties and the need for commercial confidentiality.	
Right to representation	
A party may appear in person or be represented by someone else at an arbitration hearing.	
Hearing procedures	
(1) In an arbitration hearing, the ACCC:	
(a) is not bound by technicalities, legal forms or rules of	Formatted: paragraph,a
evidence; and (b) must act as speedily as a proper consideration of the dispute allows, having regard to the need to inquire into and	
investigate carefully and quickly the dispute and all matters	Formatted: Font: 8 pt
affecting the merits, and a fair settlement, of the dispute; and (c) may inform itself of any matter relevant to the dispute in any way it considers appropriate.	Formatted: Space Before pt, Border: Top: (Single s width)
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(2) The ACCC may determine the periods that are reasonably necessary for the fair and adequate presentation of the respective access of the martine and may require that their access he presented.	Formatted: Default Para Roman, 9 pt
cases of the parties, and may require that their cases be presented within those periods.	Formatted: Line spacing
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(3) The ACCC may require evidence or argument to be presented in writing, and may decide the matters on which it will hear oral	Formatted: Default Para Roman, 9 pt, Italic
evidence or argument.	Formatted: Font: Times
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Telecommunications (Arbitration) Regulations 27	

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Part 5 hearings

Regulation 20

(4) The ACCC may determine that an arbitration hearing is to be	Formatted: subsection,ss,Subsection
conducted by:	
(a) telephone; or	
(b) closed circuit television; or	
(c) any other means of communication.	Formatted: paragraph,a
21 Failureold law continues to attend as witness	
(1) A person who:	
(a) is summoned under regulation 17 to attend an arbitration hearing; and	
(b) has not been excused, or released from further attendance, by a member of the ACCC for the arbitration;	
must attend the hearing as required by the summons.	
Penalty: 10 penalty units.	
(2) Strict liability applies to subregulation (1).	
(3) It is a defence to a prosecution for an offence against subregulation (1) if the person had a reasonable excuse.	
<i>Note</i> A defendant bears an evidential burden apply in relation to the question	Formatted: subsection,ss,Subsection
whether he or she had a reasonable excuse (see section 13.3 of the Criminal Code).a dispute if, immediately before commencement:	Formatted: paragraph,a
erminar coues.a dispute it, initiledratery before commencement.	Formatted: Font: 8 pt
22 Failure to answer questions etc	Formatted: Space Before: 6 pt, Line spacing: At least 0 pt, Border: Top: (Single solid line, Auto, 0.75 pt Line width)
(1) A witness at an arbitration hearing must not: (a) fail to be sworn or to make an affirmation; or	Formatted: Default Paragraph Font, Font: Times New Roman, 9 pt, Italic
 (a) notification of the dispute had been given to the ACCC; and (b) fail to answer a question that the witness is requireda 	Formatted: Default Paragraph Font, Font: Times New Roman, 9 pt
withdrawal of the notification of the dispute had not been	Formatted: Line spacing: At least 0 pt
received by the ACCC to answer; or; and	Formatted: Right, Line spacing: At least 0 pt
(c) fail to produce a document that the witness is required to	Formatted Table
produce by a summons under paragraph 17 (1) (b).	Formatted: Font: Times New Roman
Penalty: 10 penalty units.	Formatted: Font: Times New Roman, Not Italic
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28 <u>Telecommunications (Arbitration) Regulations 1997</u> Telecommunications (Arbitration) Regulations 2018	/

hearings	Part 5

Regulation 26

(2) Without limiting subregulation (4), paragraph (1) (b) or (c) doe not require a witness to answer a question or produce a documer if the answer or the production of the document might tend to incriminate the witness or expose him or her to a penalty. Strict liability applies to subregulation (1). (3)It is a defence to a prosecution for an offence subregulation (1) if the witness had a reasonable excuse. Note A defendant bears an evidential burden in relation to the question whether he or she had a reasonable excuse (see section 13.3 of the Crimin Code). 25 Intimidation etc prohibited (1) This regulation applies if a person: has produced, or proposes to produce, documents to (a) ACCC; or has appeared, or proposes to appear, as a witness at a (b) arbitration hearing. (2) A person must not engage in conduct that: threatens, intimidates, or coerces a person mentioned i (a) subregulation (1); or (b) causes damage, disadvantage or loss to the person. Penalty: 10 penalty units. Formatted: Font: 8 pt (3) Strict liability applies to the physical element paragraph (2) (a) that the person is a person mentioned width) subregulation (1). **Disturbing etc arbitration hearings prohibited** 26 A person must not, in relation to an arbitration hearing: insult or disturb an ACCC member exercising powe (a) performing functions or duties as an ACCC member; or Roman, 9 pt (b) interrupt the hearing; or Telecommunications (Arbitration) Regulations 29 1997 Telecommunications (Arbitration) Regulations 2018

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Regula	tion 26	
	(c) use insulting language towards an ACCC member exercising powers, or performing functions or duties, as an ACCC member; or	
	(d) create a disturbance, or participate in creating or continuing a disturbance, where the hearing is being conducted.	
	Penalty: 10 penalty units.	
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Arbitration hearings

Regulation 26

hearings_Part 5

Part 4

Section 2	<u>j</u>
(c) the arbitration of the dispute had not been terminated by the ACCC; and	
(d) a determination of the dispute had not been made.	

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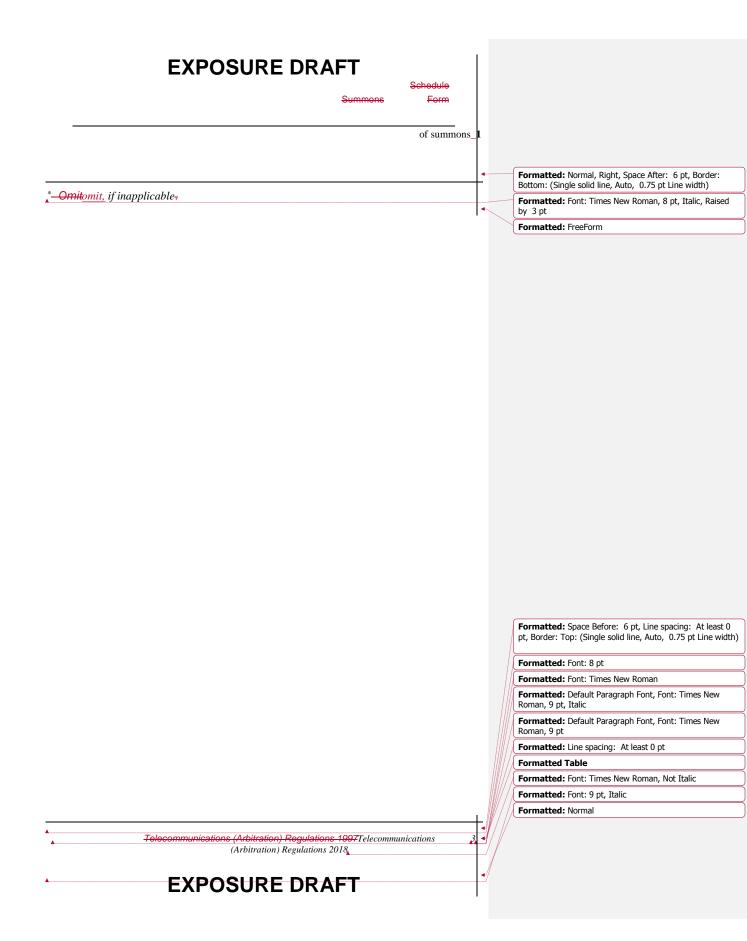
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Schedule Form

Summons

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Note: See subsection 17(2).	
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[Title of matter]	Formatted: FreeForm
То	Formatted: FreeForm, Left, Indent: Left: 0 cm, Hanging: 1.25 cm
Name of witness: (insert full : [name of witness)	Formatted: FreeForm
Address of witness: (insert and address of witness)]	Formatted: FreeForm, Left, Indent: Left: 0 cm, Hanging: 1.25 cm
1. You are summoned to attend <u>before</u> the Australian Competition and Consumer Commission, <u>{[insert address]</u> , for an arbitration hearing in this matter on <u>{[insert</u>]	Formatted: FreeForm, Indent: Left: 0 cm, Hanging: 1.25 cm
<i>date</i>]] at <u>{[insert time}]</u> and then from day to day until the hearing is completed or	Formatted: Font: Times New Roman, 8 pt, Raised by 3 pt
until you are released from further attendance.	Formatted: FreeForm, Left, Indent: Left: 0 cm, Hanging: 1.25 cm
2. You are required to attend <u>before</u> the Commission to give evidence at the hearing.	Formatted: FreeForm, Tab stops: Not at 12.7 cm
*3. You are required to bring with you and produce the following documents: [set out the documents required]	Formatted: Space Before: 6 pt, Line spacing: At least 0 pt, Border: Top: (Single solid line, Auto, 0.75 pt Line width)
(specify the documents required).	Formatted: Font: 8 pt
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Notes to the Telecommunications (Arbitration) Regulations

Table of Statutory Rules

Notes to the Telecommunications (Arbitration) Regulations 1997 Note Schedule 2—Repeals

Telecommunications (Arbitration) Regulations 1997

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_The Telecommunications (Arbitration) Regulations 1997 (in ← force under the Telecommunications Act 1997) as shown in this compilation comprise Statutory Rules 1997 No. 350 amended as indicated in the Tables below.whole of the instrument

Table of Statutory Rules

′ear and rumber	Date of notification in Gazette	Date of commencement	Application, saving or transitional provisions	
997 No. 350	15 Dec 1997	15 Dec 1997		
:001 No. 337 <i>(a)</i>	21 Dec 2001	21 Dec 2001	-	
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Notes to the Telecommunications (Arbitration) Regulations

Table of Amendments

Table of Amendments ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted Provision affected How affected R. 1..... rs. 2001 No. 337 Rr. 21. 22. rs 2001 No 337 Rr. 23, 24..... rep. 2001 No. 337 R. 25 am. 2001 No. 337 Formatted: Font: 8 pt **Formatted:** Space Before: 6 pt, Line spacing: At least 0 pt, Border: Top: (Single solid line, Auto, 0.75 pt Line width) Formatted: Font: Times New Roman Formatted: Line spacing: At least 0 pt Formatted Table Formatted: Default Paragraph Font, Font: Times New Roman, 9 pt, Italic Formatted: Default Paragraph Font, Font: Times New Roman, 9 pt Formatted: Font: Times New Roman, Not Italic Formatted: Font: 9 pt, Italic Formatted: Normal Telecommunications (Arbitration) Regulations 1997 Telecommunications 5 (Arbitration) Regulations 2018

Notes to the Telecommunications (Arbitration) Regulations 1997

Table of Amendments

Schedule 2_Repeals

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