

Telecommunications (Infringement Notice Penalties) Determination 2022

I, Michelle Rowland, Minister for Communications, make the following determination.

Dated

Michelle Rowland **DRAFT ONLY—NOT FOR SIGNATURE**

Minister for Communications

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1 Name

This instrument is the *Telecommunications (Infringement Notice Penalties) Determination 2022*.

2 Commencement

(1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

| Commencement information | | |
| --- | --- | --- |
| Column 1 | Column 2 | Column 3 |
| Provisions | Commencement | Date/Details |
| The whole of this instrument. | The day after this instrument is registered. |  |

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

(2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under subsection 572G(2) of the *Telecommunications Act 1997*.

4 Definitions

In this instrument:

***Act*** means the *Telecommunications Act 1997*.

***Consumer Protection Act*** means the *Telecommunications (Consumer Protection and Service Standards) Act 1999*.

***CSG Retail Benchmarks Instrument*** means the *Telecommunications (Customer Service Guarantee – Retail Performance Benchmarks) Instrument (No. 1) 2011,* as in force from time to time.

***Payphone Benchmarks Instrument*** means the *Telecommunications (Payphones) Determination 2022*, as in force from time to time.

***primary universal service provider*** has the same meaning as in the Consumer Protection Act.

5 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

6 Contraventions and related penalties

1. For the purposes of paragraph 572G(1)(a) of the Act, for each kind of contravention of section 68 of the Act set out at item in column 1 of the table at Schedule 1 to this Determination, the associated number of penalty units for that item in column 2 of that table is specified.
2. For the purposes of paragraph 572G(1)(a) of the Act, for each kind of contravention of section 101 of the Act set out at item in column 1 of the table at Schedule 2 to this Determination, the associated number of penalty units for that item in column 2 of that table is specified.

Schedule 1 — Contraventions and penalties (section 68)

| Contraventions and penalties under the Act | | |
| --- | --- | --- |
| Item | Column 1 | Column 2 |
|  | Contravention | Number of penalty units |
| 1 | A contravention that consists of breach of the carrier licence condition set out in Part 1 of Schedule 1 to the Act in so far as that condition relates to subsection 12EE(9) of the Consumer Protection Act and the failure of a primary universal service provider to meet a minimum benchmark by less than 2 percentage points. | 3 000 |
| 2 | A contravention that consists of a breach of the carrier licence condition set out in Part 1 of Schedule 1 to the Act in so far as that condition relates to subsection 12EE(9) of the Consumer Protection Act and the failure of a primary universal service provider to meet a minimum benchmark by 2 percentage points or more but less than 5 percentage points. | 6 000 |
| 3 | A contravention that consists of a breach of the carrier licence condition set out in Part 1 of Schedule 1 to the Act in so far as that condition relates to subsection 12EE(9) of the Consumer Protection Act and the failure of a primary universal service provider to meet a minimum benchmark by 5 percentage points or more. | 9 000 |
| 4 | A contravention that consists of a breach of the carrier licence condition set out in Part 1 of Schedule 1 to the Act in so far as that condition relates to subsection 12EF(2) of the Consumer Protection Act. | 600 |
| 5 | A contravention that consists of a breach of the carrier licence condition set out in Part 1 of Schedule 1 to the Act in so far as that condition relates to subsection 12EI(6) of the Consumer Protection Act. | 900 |

Note: The relevant minimum benchmarks referred to in items 1 – 3 above are set out in Division 3 of Part 3 of the Payphone Benchmarks Instrument.

Schedule 2 — Contraventions and penalties (section 101)

| Contraventions and penalties under the Act | | |
| --- | --- | --- |
| Item | Column 1 | Column 2 |
|  | Contravention | Number of penalty units |
| 1 | A contravention that consists of a breach of the service provider rule set out in Part 1 of Schedule 2 to the Act in so far as that rule relates to subsection 12EE(9) of the Consumer Protection Act and the failure of a primary universal service provider to meet a minimum benchmark by less than 2 percentage points. | 3 000 |
| 2 | A contravention that consists of a breach of the service provider rule set out in Part 1 of Schedule 2 to the Act in so far as that rule relates to subsection 12EE(9) of the Consumer Protection Act and the failure of a primary universal service provider to meet a minimum benchmark by 2 percentage points or more but less than 5 percentage points. | 6 000 |
| 3 | A contravention that consists of a breach of the service provider rule set out in Part 1 of Schedule 2 to the Act in so far as that rule relates to subsection 12EE(9) of the Consumer Protection Act and the failure of a primary universal service provider to meet a minimum benchmark by 5 percentage points or more. | 9 000 |
| 4 | A contravention that consists of a breach of the service provider rule set out in Part 1 of Schedule 2 to the Act in so far as that rule relates to subsection 12EF(2) of the Consumer Protection Act | 600 |
| 5 | A contravention that consists of a breach of the service provider rule set out in Part 1 of Schedule 2 to the Act in so far as that rule relates to subsection 12EI(6) of the Consumer Protection Act. | 900 |
| 6 | A contravention that consists of a breach of the service provider rule set out in Part 1 of Schedule 2 to the Act in so far as that rule relates to subsection 117C(2) of the Consumer Protection Act and the failure of a carriage service provider to meet a minimum benchmark by less than 2 percentage points. | 3 000 |
| 7 | A contravention that consists of a breach of the service provider rule set out in Part 1 of Schedule 2 to the Act in so far as that rule relates to subsection 117C(2) of the Consumer Protection Act and the failure of a carriage service provider to meet a minimum benchmark by 2 percentage points or more but less than 5 percentage points. | 6 000 |
| 8 | A contravention that consists of a breach of the service provider rule set out in Part 1 of Schedule 2 to the Act in so far as that rule relates to subsection 117C(2) of the Consumer Protection Act and the failure of a carriage service provider to meet a minimum benchmark by 5 percentage points or more. | 9 000 |

Note 1: This relevant minimum benchmarks referred to in items 1 – 3 above are set out in Division 3 of Part 3 of the Payphone Benchmarks Instrument.

Note 2: This relevant minimum benchmarks referred to in items 6 – 8 above are set out in Part 2 of the CSG Retail Benchmarks Instrument.