

Tab A – Table of recommended changes

Review of the draft *Telecommunications (Participating Person Exemption – Public Safety) Determination 2022*

NSW Telco Authority (NSWTA) proposes the following changes to the draft *Telecommunications (Participating Person Exemption – Public Safety) Determination 2022* (Determination).

Section	Current draft	Proposed draft (NSWTA)	Comment
5	<p>Government Radio Network means a radiocommunications system:</p> <p>(a) owned and operated by a State or Territory or a corporation owned wholly by a State or Territory; and</p> <p>(b) used to supply carriage services using trunked radiocommunications.</p>	<p>Government telecommunications network means a telecommunications network:</p> <p>(a) owned and operated by the Commonwealth, a State or Territory or a corporation owned wholly by the Commonwealth, a State or Territory</p> <p>(b) used to supply carriage services for the purpose of operational communications; and</p> <p>(c) is operated on a cost-recovery, non-profit basis</p>	<p>A definition of <i>Government telecommunications network</i> is provided in the <i>Government Telecommunications Act 2018</i> (GT Act). The definition above adapts the definition of <i>Government Radio Network</i> in the Determination to focus more on the purpose and nature of the communications rather than a specific technology.</p> <p>The proposed amendment supports the evolving nature of telecommunications, including future data-enabled networks, while ensuring that the purpose is consistent with public safety and emergency management activities, as outlined in the definition of operational communications below. Part (c) is included to refine the eligibility of entities under the Determination.</p> <p>Another point of note is that NSWTA's current Public Safety Network (PSN) was formerly referred to as the Government Radio Network (GRN) but has evolved in coverage and</p>

			capacity through the Critical Communications Enhancement Program and the NSWTA would prefer not to reinvigorate the former term.
5	NIL	<p>Operational communications means communications to facilitate the exercise of functions:</p> <p>(a) in connection with preventing, preparing for, responding to or recovering from, an emergency, public safety incident or other incident posing a risk of harm to any person or property (including training activities in relation to the exercise of those functions), and</p> <p>(b) in relation to law enforcement agencies — in connection with law enforcement and compliance, and</p> <p>(c) national security</p>	<p>We suggest including this definition. A definition of <i>operational communications</i> is based on the definition in the GT Act and the suggested definition is adapted to include <i>national security</i> and <i>law enforcement agencies</i> more broadly, whereas the GT Act refers only to NSW Police Force.</p>
5	NIL	<p>Law enforcement agency means a government agency responsible for the enforcement of laws within a jurisdiction and includes, but is not limited, to:</p> <ul style="list-style-type: none"> • Australian Federal Police • Australian Capital Territory Policing • New South Wales Police Force • Northern Territory Police Force • Queensland Police Service • South Australia Police 	<p>We suggest including this definition. The definition of <i>law enforcement agency</i> is offered to enable the definition of <i>operational communications</i> to be applicable across Australia.</p>

		<ul style="list-style-type: none"> • Tasmania Police • Victoria Police • Western Australia Police Force 	
5	<p>Permitted Purpose means any voice or data communication necessary or desirable to perform, support or facilitate:</p> <p>(a) public safety activities; or</p> <p>(b) public safety functions; or</p> <p>(c) national security.</p>	<p>Permitted Purpose means any voice or data communication necessary or desirable to perform, support or facilitate operational communications.</p>	<p>Governments are working to progress Long Term Evolution (LTE) and data-enabled telecommunications, such as Public Safety Mobile Broadband, to support <i>operational communications</i>. Limiting the scope to ‘radio’ (or ‘trunked radiocommunications’) does not adequately capture planned developments and evolving technologies. Adherence to the defined <i>permitted purpose</i> can ensure that the Determination is applied appropriately and is not applicable to all carriers or carriage service providers.</p>
6	<p>2(b) satisfies each of the following paragraphs during all times a person is a Qualifying Entity in the specified period:</p> <p>(i) it owns, or is vested with and operates, a Government Radio Network; and</p> <p>(ii) it supplies carriage services using any telecommunications networks which it either owns, or is vested with and operates (including without limitation the Government Radio Network) only to Permitted Users and only for Permitted Purposes; and</p>	<p>2(b) satisfies each of the following paragraphs during all times that a person is a Qualifying Entity in the specified period:</p> <p>(i) it owns, or is vested with and operates, a Government telecommunications network; and</p> <p>(ii) it supplies carriage services using any telecommunications networks which it either owns, or is vested with and operates (including without limitation the Government telecommunications network) only to Permitted Users and only for Permitted Purposes; and</p>	<p>Suggest changing ‘Government Radio Network’ to ‘Government telecommunications network’ to align with previous recommended changes.</p>



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	<p>(iii) each carriage service it supplies (as referred to in paragraph (ii) above) is wholly on a non-commercial basis or no-profit basis.</p>	<p>(iii) each carriage service it supplies (as referred to in paragraph (ii) above) is wholly on a non-commercial basis or no-profit basis.</p>	
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