

Commonwealth of Australia

*Telecommunications Act 1997*

**Telecommunications (National Broadband Network)  
Determination under subsection 531H(4) 2008 (No. 1)**

I, ANTHONY NORMAN ALBANESE, Minister for Infrastructure, Transport, Regional Development and Local Government, on behalf of the Minister for Broadband, Communications and the Digital Economy in accordance with an authorisation under section 18C of the *Acts Interpretation Act 1901*, make this Determination under subsection 531H(4) of the *Telecommunications Act 1997*.

Dated 6 August 2008

ANTHONY NORMAN ALBANESE  
Minister for Infrastructure, Transport, Regional Development and Local  
Government

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**1 Name of Determination**

This Determination is the *Telecommunications (National Broadband Network) Determination under subsection 531H(4) 2008 (No. 1)*.

**2 Commencement**

This Determination commences on the day after it is registered on the Federal Register of Legislative Instruments.

**3 Definitions**

In this Determination:

*Act* means the *Telecommunications Act 1997*.

*relevant company* means a company which has given a notice to an authorised information officer under paragraph 531H(1)(b) of the Act.

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**receiving officer** means an entrusted company officer of a relevant company nominated for the purposes of paragraph 4(1)(a) of this Determination.

**Rules** means the *Telecommunications (National Broadband Network – Restricted Recipients and Storage, Handling and Destruction of Protected Carrier Information) Rules 2008 (No. 1)*.

*Note 1:* Each of the following expressions used in this Determination has the meaning given by the Act:

- authorised information officer
- designated request for proposals notice
- entrusted company officer

**4 Conditions for the purposes of paragraph 531H(1)(d) of the Act**

- (1) For the purposes of paragraph 531H(1)(d) of the Act, the following conditions are determined:
- (a) a relevant company has:
- (i) given a written notice to an authorised information officer that nominates a receiving officer to receive protected carrier information under subsection 531H(1) of the Act and that specifies the premises at which protected carrier information disclosed to a receiving officer under subsection 531H(1) of the Act would be stored; and
  - (ii) certified to an authorised information officer that the duties of the receiving officer are directly relevant to the exceptions to the prohibition on use in subsection 531K(1) of the Act set out in subsection 531K(2A) of the Act; and
- (b) the receiving officer has given an authorised officer a signed copy of an undertaking in substantially the form specified in Schedule 1; and
- (c) the receiving officer has certified to an authorised information officer that the relevant company has appropriate systems, equipment,

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procedures and other arrangements in place to ensure that its entrusted company officers comply with the Rules.

*Note:* Where a submission in response to a designated request for proposals notice is intended to be made by a company jointly with one or more other companies or entities as a consortium, the intention is that there be one receiving officer for the consortium.

- (2) For the purposes of subparagraph (1)(a)(i), a receiving officer must be an entrusted company officer of the relevant company within the meaning of paragraph (a) or (b) of the definition of ‘entrusted company officer’ in section 531B of the Act.
- (3) Certification for the purposes of subparagraph (1)(a)(ii) must be in the form of a statutory declaration made under the *Statutory Declarations Act 1959* (Cth) by an officer or employee of the relevant company (other than the person nominated as the receiving officer for the purposes of subparagraph 4(1)(a)(i)).
- (4) Certification for the purposes of paragraph (1)(c) must be in the form of a statutory declaration made under the *Statutory Declarations Act 1959* (Cth).

**SCHEDULE 1**

**Undertaking**

This Undertaking is given by [ *insert name and address*] for the purposes of paragraph 4(1)(b) *Telecommunications (National Broadband Network) Determination under subsection 531H(4) 2008 (No. 1)*.

Words defined in the *Telecommunications (National Broadband Network – Restricted Recipients and Storage, Handling and Destruction of Protected Carrier Information) Rules 2008 No. 1 (Rules No. 1)* have the same meanings when used in this Undertaking.

I am an employee/director/partner/consultant of [ *insert name of company*].

I irrevocably and unconditionally undertake to:

1. not use or disclose any protected carrier information that is in my possession or control, except as permitted by the Act;
2. not copy or duplicate any protected carrier information that is in my possession or control, except as permitted by Rules No. 1; and
3. duly and punctually comply with the Act and to perform any obligation imposed on me by Rules No. 1.

This Undertaking is governed by the laws of the Australian Capital Territory.

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Name:

Date: