

**DISCLAIMER:** *The Commission and Australia are publishing the texts of the Agreement following the announcement of conclusion of the negotiations on 24 March 2026. The texts are published in view of the public interest in the Agreement, for information purposes only and they may undergo further minor modifications, including as a result of the process of legal and linguistic revision. These texts are without prejudice to the final outcome of the Agreement between the EU and Australia. The texts will be final upon signature. The Agreement will become binding on the Parties under international law only after completion by each Party of its applicable legal requirements and procedures necessary for the entry into force of the Agreement.*

## CHAPTER 9

### SERVICES AND INVESTMENT

#### SECTION E

#### REGULATORY FRAMEWORK

#### SUB-SECTION 4

#### TELECOMMUNICATIONS SERVICE

#### ARTICLE 9.50

##### Scope

1. In addition to Chapters II (Investment Liberalisation) and III (Cross-border Trade in Services), this Section shall apply to measures of a Party affecting the supply of telecommunications services.
2. This Section shall not apply to any measure affecting:
  - (a) broadcasting services as defined in the law of each Party; and
  - (b) services providing, or exercising editorial control over, content transmitted using telecommunications networks and services.
3. Notwithstanding point 2(a), a supplier of broadcasting services shall be considered to be a supplier of public telecommunication services and its networks as public

telecommunications networks, to the extent that its networks are also used for providing public telecommunications services.

## ARTICLE 9.51

### Definitions

For the purpose of this Section:

- (a) "associated facilities" means services, physical infrastructures and other facilities associated with a telecommunications network or service which enable or support the supply of telecommunications services via that network or service or have the potential to do so;
- (b) "essential facilities" means facilities of a public telecommunications network or service that:
  - (i) are exclusively or predominantly provided by a single or limited number of suppliers; and
  - (ii) cannot feasibly be economically or technically substituted in order to provide a service;
- (c) "interconnection" means linking with suppliers providing public telecommunications networks or services in order to allow the users of one supplier to communicate with users of another supplier and to access services provided by any supplier who has access to the network;
- (d) "leased circuit" means telecommunications services or facilities that set aside capacity for the dedicated use of, or availability to, a user between two or more designated points, irrespective of the technology used;
- (e) "major supplier" means a supplier of public telecommunications networks or services which has the ability to materially affect the terms of participation (having regard to price and supply) in a relevant market for public telecommunications networks or services as a result of control over essential facilities or the use of its position in that market;

- (f) "network element" means a facility or equipment used in supplying a telecommunications service, including features, functions and capabilities provided by means of that facility or equipment;
- (g) "non-discriminatory" means treatment no less favourable than that accorded to any other user of like public telecommunications networks or services in like situations;
- (h) "number portability" means the ability of subscribers to retain the same telephone numbers when switching between the same category of suppliers of public telecommunications services;
- (i) "public telecommunications network" means any telecommunications network used wholly or mainly for the provision of public telecommunications services between network termination points;
- (j) "public telecommunications service" means any telecommunications service that is offered to the public generally;
- (k) "reference interconnection offer" means an interconnection offer extended by a major supplier, which is published and sufficiently details the terms, rates and conditions for interconnection so that a supplier of public telecommunications services that is willing to accept it may obtain interconnection with the major supplier on that basis, without having to engage in negotiations with the major supplier concerned;
- (l) "subscriber" means any natural person or enterprise which is party to a contract with a supplier of public telecommunications services for the supply of such services;
- (m) "telecommunications" means the transmission and reception of signals by any electromagnetic means;
- (n) "telecommunications network" means transmission systems and, where applicable, switching or routing equipment and other resources, including network elements which are not active, which permit telecommunications;
- (o) "telecommunications regulatory authority"<sup>1</sup> means the body or bodies responsible for the regulation of telecommunications networks and services covered by this section;
- (p) "telecommunications service" means a service which consists wholly or mainly in the transmission and reception of signals over telecommunications networks, but not a

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<sup>1</sup> For greater certainty, for Australia, the telecommunications regulatory authorities are the Australian Communications and Media Authority (or its successor) and the Australian Competition and Consumer Commission (or its successor).

service providing, or exercising editorial control over, content transmitted using telecommunications networks and services.

- (q) "universal service" means the minimum set of services that must be made available to all users, or to a set of users, in the territory of a Party, or in a subdivision thereof, regardless of their geographical location;
- (r) "user" means service consumers and service suppliers;

## ARTICLE 9.52

### Telecommunications Regulatory Authority

1. Each Party shall establish or maintain a telecommunications regulatory authority that:
  - (a) is legally distinct and functionally independent from any supplier of telecommunications networks, telecommunications services or telecommunications equipment;
  - (b) uses procedures and issues decisions that are impartial with respect to all market participants;
  - (c) has the regulatory power, as well as appropriate financial and human resources, to carry out those tasks;
  - (d) has the power to ensure that suppliers of public telecommunications networks or services provide it, promptly upon request, with all the information<sup>2</sup>, including financial information, necessary to carry out those tasks; and
  - (e) exercises its powers transparently and in a timely manner.
2. Each Party shall ensure that the tasks to be undertaken by the telecommunications regulatory authority are made public in an easily accessible and clear form, in particular where those tasks are assigned to more than one body.
3. With a view to ensuring the independence and impartiality of telecommunications regulatory authorities, each Party shall ensure that its telecommunication regulatory authority

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<sup>2</sup> Information requested shall be treated in accordance with each Party's laws and regulations relating to the handling of commercially sensitive information.

does not hold a financial interest<sup>3</sup> or maintain an operating or management role in any supplier of public telecommunications services.

4. Each Party shall ensure that a user or supplier of telecommunications networks or services affected by a decision of the telecommunications regulatory authority has a right of appeal before an appeal body which is independent of both the regulatory authority and other affected parties. Pending the outcome of the appeal, the decision shall stand, unless interim measures are granted in accordance with the Party's law.

#### ARTICLE 9.53

##### Authorisation to Provide Telecommunications Networks or Services

1. Each Party shall ensure that measures relating to authorisation for the provision of public telecommunications networks or services are based on clear, objective and transparent criteria and are not more burdensome than necessary for the kind of service provided.

2. Each Party shall ensure that an applicant receives in writing the reasons for the denial or the revocation of an authorisation, or the imposition of supplier-specific conditions. In such cases, an applicant shall have a right of appeal before a judicial or administrative body.

#### ARTICLE 9.54

##### Interconnection

1. The Parties recognise that interconnection should in principle be agreed on the basis of commercial negotiation between the suppliers of public telecommunications networks or services concerned.

2. Each Party shall provide its regulatory authority with the power to require, where necessary, suppliers of public telecommunications networks or services in its territory to

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<sup>3</sup> For greater certainty, this paragraph shall not be construed to prohibit a government entity of a Party other than the telecommunications regulatory authority from owning equity in a supplier of public telecommunications services.

provide interconnection with suppliers of public telecommunications networks or services of the other Party.

3. Each Party shall provide its telecommunications regulatory authority with the power to require interconnection at reasonable rates.

4. Each Party shall ensure that suppliers of public telecommunications services in its territory that acquire information from another supplier in the process of negotiating interconnection arrangements use that information solely for the purpose for which it was supplied and take reasonable steps to protect the confidentiality of that information.

#### ARTICLE 9.55

##### Access and Use

1. Each Party shall ensure that any covered enterprise or service supplier of the other Party is accorded access to and use of public telecommunications networks or services on reasonable and non-discriminatory terms and conditions. This obligation shall be applied, *inter alia*, through paragraphs 2 through 5 of this Article.

2. Each Party shall ensure that covered enterprises or service suppliers of the other Party have access to and use of any public telecommunications network or service offered within or across its border, including private leased circuits, and to this end shall ensure, subject to the provisions in paragraph 5 of this Article, that such enterprises and suppliers are permitted:

- (a) to purchase or lease and attach terminal or other equipment which interfaces with the network and which is necessary to conduct their operations;
- (b) to interconnect private leased or owned circuits with public telecommunications networks or with circuits leased or owned by another covered enterprise or service supplier; and
- (c) to use operating protocols of their choice in their operations, other than as necessary to ensure the availability of telecommunications services to the public generally.

3. Each Party shall ensure that covered enterprises or service suppliers of the other Party may use public telecommunications networks and services for the movement of information within and across borders, including for their intra-corporate communications, and for access to information contained in data bases or otherwise stored in machine-readable form in the territory of either Party.

4. Notwithstanding the provisions in paragraph 3, a Party may take such measures as are necessary to ensure the security and confidentiality of communications, subject to the requirement that such measures are not applied in a manner which would constitute either a disguised restriction on trade in services or a means of arbitrary or unjustifiable discrimination.

5. Each Party shall ensure that no condition is imposed on access to and use of public telecommunications networks or services other than as necessary:

- (a) to safeguard the public service responsibilities of suppliers of public telecommunications networks or services, in particular their ability to make their services available to the public generally; or
- (b) to protect the technical integrity of public telecommunications networks or services.

## ARTICLE 9.56

### Resolution of Telecommunications Disputes

1. Each Party shall ensure that, in the event of a dispute arising between suppliers of public telecommunications networks or services in connection with rights and obligations that arise from this section, and at the request of either party involved in the dispute, the telecommunications regulatory authority issues a binding decision within a reasonable timeframe to resolve the dispute, where it has the authority to do so.

2. The decision by the telecommunications regulatory authority shall be made available to the public, as a matter of course or on request, having regard to the Party's business confidentiality requirements. The parties concerned shall be given a full statement of the reasons on which it is based and shall have the right of appeal referred to in Article 5.13 paragraph 4.

3. The procedure referred to in paragraphs 1 and 2 of this Article shall not preclude either party concerned from bringing an action before a judicial authority.

#### ARTICLE 9.57

##### Competitive Safeguards on Major Suppliers

Each Party shall introduce or maintain appropriate measures for the purpose of preventing suppliers of telecommunications networks or services who, alone or together, are a major supplier from engaging in or continuing anti-competitive practices. These anti-competitive practices shall include in particular:

- (a) engaging in anti-competitive cross-subsidisation;
- (b) using information obtained from competitors with anti-competitive results; and
- (c) not making available to other services suppliers on a timely basis technical information about essential facilities and commercially relevant information which are necessary for them to provide services.

#### ARTICLE 9.58

##### Interconnection with Major Suppliers

1. Each Party shall ensure that major suppliers in its territory of public telecommunications networks or services provide interconnection at any technically feasible point in the network. Such interconnection shall be provided:

- (a) under non-discriminatory terms and conditions (including rates, technical standards, specifications, quality and maintenance) and of a quality no less favourable than that provided by the major supplier for its own like services or for like services of its subsidiaries or other affiliates;
- (b) in a timely fashion, on terms and conditions (including rates, technical standards, specifications, quality and maintenance) that are transparent, reasonable, having regard to economic feasibility, and sufficiently unbundled so that the supplier need not pay for network elements or facilities that it does not require for the service to be provided; and

- (c) upon request, at points in addition to the network termination points offered to the majority of users, subject to charges that reflect the cost of construction of necessary additional facilities.
- 2. The procedures for interconnection with a major supplier shall be made publicly available.
- 3. Major suppliers shall make publicly available either their interconnection agreements or their reference interconnection offers as appropriate.

#### ARTICLE 9.59

##### Access to Major Suppliers' Essential Facilities and Unbundled Network Elements

- 1. Each Party shall ensure that a major supplier in its territory provides to suppliers of public telecommunications services of the other Party:
  - (a) access to essential facilities<sup>4</sup>; and
  - (b) access to network elements on an unbundled basisfor the purpose of providing public telecommunications services on terms and conditions (including rates), which are reasonable, non-discriminatory and transparent. Subject to technical feasibility, access shall be provided on a timely basis.
- 2. Notwithstanding paragraph 1, each Party may determine, in accordance with its laws and regulations:
  - (a) the essential facilities to which a major supplier must provide access; and
  - (b) the network elements a major supplier must provide on an unbundled basis.
- 3. If a Party makes a determination under paragraphs 2(a) or 2(b), it shall take into account factors such as the competitive effect of lack of access and whether the facilities or network

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<sup>4</sup> This includes access to associated facilities.

elements can be substituted in an economically or technically feasible manner in order to provide a competing service.

#### ARTICLE 9.60

##### Scarce Resources

1. Each Party shall carry out its procedures for the allocation and granting of rights of use of scarce resources, including frequencies, numbers and rights of way, in an objective, timely, transparent, non-discriminatory manner.
2. Each Party shall carry out its procedures for the assignment of frequency bands for public telecommunication services via an open process that takes into account the overall public interest, including the promotion of competition. To that end, each Party shall endeavour to use market based approaches, including mechanisms such as auctions where appropriate.
3. Each Party shall make publicly available the current state of frequency bands allocated to specific uses, but detailed identification of frequency bands allocated or assigned for specific government uses is not required.
4. For greater certainty, measures of a Party allocating and assigning frequency bands and managing frequencies are not *per se* inconsistent with Articles 2.2 and 3.2 (Market Access). Accordingly, each Party retains the right to establish and apply frequency management measures that may have the effect of limiting the number of suppliers of telecommunications services, provided that it does so in a manner consistent with the other provisions of this Agreement. This includes the ability to allocate frequency bands taking into account current and future needs and availability.

#### ARTICLE 9.61

##### Universal Service

1. Each Party has the right to define the kind of universal service obligations it wishes to maintain.

2. Each Party shall administer its universal service obligations in a transparent, objective and non-discriminatory way, which is neutral with respect to competition and not more burdensome than necessary for the kind of universal service defined by the Party.

#### ARTICLE 9.62

##### Number Portability

Each Party shall ensure that suppliers of public telecommunications services provide number portability to those subscribers who so request:

- (a) without impairment to quality and reliability;
- (b) on a timely basis;
- (c) on reasonable terms and conditions; and
- (d) in the case of a fixed line, at the same location.

#### ARTICLE 9.63

##### Confidentiality of Information

1. Each Party shall ensure that suppliers that acquire information from another supplier in the process of negotiating arrangements pursuant to Articles 5.15, 5.16, 5.19 and 5.20 use that information solely for the purpose for which it was supplied and respect at all times the confidentiality of information transmitted or stored.

2. Each Party shall adopt or maintain measures to protect the confidentiality of communications and related traffic data transmitted in the use of public telecommunications networks or services. Such measures should not be applied in a manner that would constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on trade in services.

## ARTICLE 9.64

### International Mobile Roaming

1. The Parties shall endeavour to cooperate on promoting transparent and reasonable rates for international mobile roaming services in ways that can help promote the growth of trade between the Parties and enhance consumer welfare.
  
2. A Party may choose to take steps to enhance transparency and competition with respect to international mobile roaming rates and technological alternatives to roaming services, such as:
  - (a) ensuring that information regarding retail rates is easily accessible to consumers; and
  - (b) minimising impediments to the use of technological alternatives to roaming, whereby consumers visiting the territory of a Party from the territory of the other Party can access telecommunications services using the device of their choice.
  
3. Each Party shall ensure suppliers of public telecommunications services in its territory make publicly available information on retail rates for international mobile roaming services for voice, data and text messages offered to their consumers when visiting the territory of the other Party.

## ARTICLE 9.65

### Cooperation

1. The Parties recognise the transformational impact of communications networks, infrastructure and technologies (including those that are new and emerging), and the importance of these technologies to the Parties' respective economies and societies.
  
2. The Parties shall endeavour to:
  - (a) exchange information on the opportunities and challenges associated with communication networks, infrastructure and technologies; and
  - (b) work together in regional and multilateral forums to promote a shared approach to these opportunities and challenges.

## ARTICLE 9.66

### Review of Commitments

1. The Trade Committee shall undertake a review of the implementation and operation of this Section in the fifth year after the date of entry into force of this Agreement, unless otherwise agreed by the Parties, and thereafter as agreed by the Parties.
  
2. A review pursuant to paragraph 1 shall be undertaken with a view to updating and enhancing the Section, to ensure that the commitments and obligations contained in this Section remain relevant to the trade and investment issues and challenges confronting the Parties.
  
3. A review pursuant to paragraph 1 shall take into account, *inter alia*:
  - (a) technological developments and innovation; and
  - (b) relevant developments in international fora or relating to a Party's laws and regulations.