

# EXPOSURE DRAFT

2016–2017

The Parliament of the  
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

EXPOSURE DRAFT (28/11/2016)
-----------------------------

## **Telecommunications (Regional Broadband Scheme) Charge Bill 2017**

**No.     , 2017**

*(Communications and the Arts)*

**A Bill for an Act to impose a charge to support the  
funding of fixed wireless broadband and satellite  
broadband, and for related purposes**

28/11/2016 3:24 PM

**EXPOSURE DRAFT**



# EXPOSURE DRAFT

---

## Contents

^1	Short title.....	1
^2	Commencement.....	1
^3	Definitions.....	2
^4	Extension to external Territories .....	4
^5	Act to bind Crown .....	4
^6	Imposition of charge.....	4
^7	Amount of charge.....	4
^8	Person liable to pay charge.....	4
^9	Annual chargeable services amount .....	5
^10	Annual base amount .....	5
^11	Monthly base amount .....	5
^12	Base component .....	6
^13	Advice by the ACCC about base component.....	7
^14	Annual administrative cost amount .....	8
^15	Monthly administrative cost amount .....	9
^16	Administrative cost component .....	9
^17	Advice by the ACCC about administrative cost component.....	10
^18	Indexation factor.....	11
^19	Disallowance of determinations .....	12



# EXPOSURE DRAFT

1  
2 **A Bill for an Act to impose a charge to support the**  
3 **funding of fixed wireless broadband and satellite**  
4 **broadband, and for related purposes**

5 The Parliament of Australia enacts:

6 **^1 Short title**

7 This Act is the *Telecommunications (Regional Broadband Scheme)*  
8 *Charge Act 2017*.

9 **^2 Commencement**

10 (1) Each provision of this Act specified in column 1 of the table  
11 commences, or is taken to have commenced, in accordance with  
12 column 2 of the table. Any other statement in column 2 has effect  
13 according to its terms.  
14

---

**Commencement information**

---

**Column 1**

**Column 2**

**Column 3**

**Provisions**

**Commencement**

**Date/Details**

1. Sections ^1  
and ^2 and  
anything in this  
Act not elsewhere  
covered by this  
table

The day this Act receives the Royal Assent.

2. Sections ^3 to  
^19

At the same time as Schedule 4 to the  
*Telecommunications Legislation Amendment*  
*(Competition and Consumer) Act 2017*  
commences.

Note:

This table relates only to the provisions of this Act as originally  
enacted. It will not be amended to deal with any later amendments of  
this Act.

---

*Telecommunications (Regional Broadband Scheme) Charge Bill*

*1*

2017

28/11/2016 3:24 PM

EXPOSURE DRAFT

# EXPOSURE DRAFT

## Section ^3

---

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

### 4 ^3 Definitions

5 In this Act:

6 *ACCC* means the Australian Competition and Consumer  
7 Commission.

8 *administrative cost component*, for a month, has the meaning  
9 given by section ^16.

10 *amount* includes a nil amount.

11 *annual administrative cost amount*, for an eligible financial year,  
12 has the meaning given by section ^14.

13 *annual base amount*, for an eligible financial year, has the  
14 meaning given by section ^10.

15 *annual chargeable services amount*, for an eligible financial year,  
16 has the meaning given by section ^9.

17 *base component*, for a month, has the meaning given by section  
18 ^12.

19 *carriage service provider* has the same meaning as in the  
20 *Telecommunications Act 1997*.

21 *chargeable service associated with a local access line* of a person  
22 for a month has the same meaning as in Part 3 of the  
23 *Telecommunications (Consumer Protection and Service Standards)*  
24 *Act 1999*.

25 *connection*, in relation to a telecommunications network, has the  
26 same meaning as in the *Telecommunications Act 1997*.

27 Note: See the definition of *connected* in section 7 of the  
28 *Telecommunications Act 1997*, and section 18A of the *Acts*  
29 *Interpretation Act 1901*.

# EXPOSURE DRAFT

1            **designated administrative costs** has the same meaning as in Part 3  
2            of the *Telecommunications (Consumer Protection and Service*  
3            *Standards) Act 1999*.

4            **eligible financial year** has the same meaning as in Part 3 of the  
5            *Telecommunications (Consumer Protection and Service Standards)*  
6            *Act 1999*.

7            **eligible funding recipient** has the same meaning as in Part 3 of the  
8            *Telecommunications (Consumer Protection and Service Standards)*  
9            *Act 1999*.

10           **eligible service** has the same meaning as in section 152AL of the  
11           *Competition and Consumer Act 2010*.

12           **facility** has the same meaning as in the *Telecommunications Act*  
13           *1997*.

14           **fixed wireless broadband service** has the same meaning as in the  
15           *Telecommunications Act 1997*.

16           **indexation factor**, for a financial year, has the meaning given by  
17           section ^18.

18           **index number**, in relation to a quarter, means the All Groups  
19           Consumer Price Index number, being the weighted average of the 8  
20           capital cities, published by the Australian Statistician in respect of  
21           that quarter.

22           **month** means calendar month.

23           **monthly administrative cost amount**, for a month, has the meaning  
24           given by section ^15.

25           **monthly base amount**, for a month, has the meaning given by  
26           section ^11.

27           **person** has the same meaning as in the *Telecommunications Act*  
28           *1997*.

# EXPOSURE DRAFT

## Section ^4

---

1                    *satellite broadband service* has the same meaning as in Part 3 of  
2                    the *Telecommunications (Consumer Protection and Service*  
3                    *Standards) Act 1999*.

4                    *telecommunications network* has the same meaning as in the  
5                    *Telecommunications Act 1997*.

### 6                    **^4 Extension to external Territories**

7                    This Act extends to each external Territory referred to in section 10  
8                    of the *Telecommunications Act 1997*.

9                    Note:            See also section 7 of the *Telecommunications (Consumer Protection*  
10                    *and Service Standards) Act 1999*.

### 11                   **^5 Act to bind Crown**

12                   This Act binds the Crown in right of each of the States, of the  
13                   Australian Capital Territory and of the Northern Territory.  
14                   However, it does not bind the Crown in right of the  
15                   Commonwealth.

### 16                   **^6 Imposition of charge**

17                   If a person has an annual chargeable services amount for an  
18                   eligible financial year, charge is imposed on that amount.

### 19                   **^7 Amount of charge**

20                   The amount of a charge that this Act imposes on an annual  
21                   chargeable services amount for an eligible financial year is equal to  
22                   that annual chargeable services amount.

### 23                   **^8 Person liable to pay charge**

24                   Charge imposed by this Act on a person's annual chargeable  
25                   services amount for an eligible financial year is payable by the  
26                   person.

1     **^9 Annual chargeable services amount**

- 2             (1) For the purposes of this Act, a person's *annual chargeable*  
3             *services amount* for an eligible financial year is the sum of:  
4                 (a) the person's annual base amount for the eligible financial  
5                 year; and  
6                 (b) the person's annual administrative cost amount for the  
7                 eligible financial year.
- 8             (2) If a person's annual chargeable services amount for an eligible  
9             financial year:  
10                 (a) is not an amount of whole dollars; and  
11                 (b) is above zero;  
12             the amount is to be rounded to the nearest dollar (rounding 50 cents  
13             upwards).
- 14             (3) For the purposes of subsection (2), *dollar* includes \$0.

15     **^10 Annual base amount**

- 16             (1) For the purposes of this Act, a person's *annual base amount* for an  
17             eligible financial year is the sum of the person's monthly base  
18             amounts for each of the months in the eligible financial year.
- 19             (2) If there are no chargeable services associated with a local access  
20             line of the person for a particular month, disregard that month for  
21             the purposes of subsection (1).

22     **^11 Monthly base amount**

23             For the purposes of this Act, a person's *monthly base amount* for a  
24             month is the amount calculated using the formula:

25             Base component ×  $\frac{\text{Number of chargeable services}}{\text{associated with a local access line}}$

26             where:

27             *base component* means the base component for that month.

# EXPOSURE DRAFT

## Section ^12

---

1                    ***number of chargeable services associated with a local access line***  
2                    means the total number of chargeable services associated with a  
3                    local access line of the person for that month.

### 4                    **^12 Base component**

#### 5                    *First eligible financial year*

- 6                    (1) For the purposes of this Act, the ***base component*** for a month in  
7                    the first eligible financial year is:  
8                    (a) \$7.09; or  
9                    (b) if another amount is determined under subsection (4) in  
10                    relation to that month—that other amount.

#### 11                    *Second and subsequent eligible financial years*

- 12                    (2) For the purposes of this Act, the ***base component*** for a month in:  
13                    (a) the second eligible financial year; or  
14                    (b) a later financial year;  
15                    is:  
16                    (c) the amount calculated using the formula in subsection (3); or  
17                    (d) if another amount is determined under subsection (4) in  
18                    relation to that month—that other amount.

- 19                    (3) The formula mentioned in paragraph (2)(c) is:

20                    Previous base component × Indexation factor

21                    where:

22                    ***indexation factor*** means the indexation factor for the financial  
23                    year.

24                    ***previous base component*** means the base component for a month  
25                    in the previous financial year.

#### 26                    *Determinations*

- 27                    (4) The Minister may, by legislative instrument:

# EXPOSURE DRAFT

- 1 (a) for the purposes of paragraph (1)(b), determine a single  
2 specified amount in relation to each of the months in the first  
3 eligible financial year; or  
4 (b) for the purposes of paragraph (2)(d), determine a single  
5 specified amount in relation to each of the months in a  
6 specified financial year.

7 Note: See also section ^19.

- 8 (5) In deciding whether to make a determination under subsection (4),  
9 the Minister must have regard to the following:  
10 (a) the most recent advice that the ACCC has given to the  
11 Minister under section ^13;  
12 (b) such other matters (if any) as the Minister considers relevant.

## 13 **^13 Advice by the ACCC about base component**

- 14 (1) The ACCC:  
15 (a) may give advice to the Minister in relation to the exercise of  
16 the Minister's power under subsection ^12(4); and  
17 (b) must do so:  
18 (i) at least once during the 5-year period beginning at the  
19 start of the first eligible financial year; and  
20 (ii) at least once during each subsequent 5-year period.
- 21 (2) In giving advice under subsection (1), the ACCC:  
22 (a) must have regard to the principle set out in subsection (3);  
23 and  
24 (b) may have regard to such other matters (if any) as the ACCC  
25 considers relevant.
- 26 (3) The principle mentioned in paragraph (2)(a) is that amounts  
27 received by the Commonwealth by way of so much of charge  
28 imposed under this Act as is attributable to the annual base amount  
29 should be sufficient, over time, to offset reasonable losses incurred  
30 by eligible funding recipients in relation to:  
31 (a) the connection of premises to a telecommunications network  
32 in order that a carriage service provider can provide:

# EXPOSURE DRAFT

## Section ^14

---

- 1 (i) fixed wireless broadband services to an end-user at the  
2 premises; or  
3 (ii) satellite broadband services to an end-user at the  
4 premises; or  
5 (b) the supply of eligible services to a carriage service provider  
6 in order that the carriage service provider can provide:  
7 (i) fixed wireless broadband services to an end-user at  
8 premises; or  
9 (ii) satellite broadband services to an end-user at premises;  
10 or  
11 (c) facilities that are used, or proposed to be used, to supply:  
12 (i) fixed wireless broadband services; or  
13 (ii) satellite broadband services; or  
14 (d) a matter that is incidental or ancillary to a matter mentioned  
15 in paragraph (a), (b) or (c).
- 16 (4) For the purposes of subsection (3), it is immaterial whether losses  
17 were incurred before or after the commencement of this section.
- 18 (5) In giving advice under subsection (1), the ACCC must assume that  
19 Division 6 of Part 3 of the *Telecommunications (Consumer*  
20 *Protection and Service Standards) Act 1999* had not been enacted.  
21 Note: That Division deals with charge offset certificates.
- 22 (6) To avoid doubt, the use of the word “Regional” in:  
23 (a) the short title of this Act; or  
24 (b) the name of the Regional Broadband Scheme Special  
25 Account;  
26 does not limit subsection (3) of this section.

### 27 **^14 Annual administrative cost amount**

- 28 (1) For the purposes of this Act, a person’s ***annual administrative cost***  
29 ***amount*** for an eligible financial year is the sum of the person’s  
30 monthly administrative cost amounts for each of the months in the  
31 eligible financial year.

# EXPOSURE DRAFT

- 1 (2) If there are no chargeable services associated with a local access  
2 line of the person for a particular month, disregard that month for  
3 the purposes of subsection (1).

## 4 ^15 Monthly administrative cost amount

5 For the purposes of this Act, a person's *monthly administrative*  
6 *cost amount* for a month is the amount calculated using the  
7 formula:

8 Administrative cost component  $\times$   $\frac{\text{Number of chargeable services}}{\text{associated with a local access line}}$

9 where:

10 *administrative cost component* means the administrative cost  
11 component for that month.

12 *number of chargeable services associated with a local access line*  
13 means the total number of chargeable services associated with a  
14 local access line of the person for that month.

## 15 ^16 Administrative cost component

- 16 (1) For the purposes of this Act, the *administrative cost component*  
17 for a month in the first eligible financial year is \$0.01266.
- 18 (2) For the purposes of this Act, the *administrative cost component*  
19 for a month in the second eligible financial year is \$0.00172.
- 20 (3) For the purposes of this Act, the *administrative cost component*  
21 for a month in the third eligible financial year is \$0.00.
- 22 (4) For the purposes of this Act, the *administrative cost component*  
23 for a month in the fourth eligible financial year is \$0.0027.
- 24 (5) For the purposes of this Act, the *administrative cost component*  
25 for a month in the fifth eligible financial year is \$0.00.
- 26 (6) For the purposes of this Act, the *administrative cost component*  
27 for a month in:  
28 (a) the sixth eligible financial year; or

# EXPOSURE DRAFT

## Section ^17

---

- 1 (b) a later financial year;  
2 is:  
3 (c) the amount calculated, to 5 decimal places (rounding up if the  
4 sixth decimal place is 5 or more), using the formula in  
5 subsection (7); or  
6 (d) if another amount is determined under subsection (8) in  
7 relation to that month—that other amount.
- 8 (7) The formula mentioned in paragraph (6)(c) is:  
9 Previous administrative cost component  $\times$  Indexation factor  
10 where:  
11 *indexation factor* means the indexation factor for the financial  
12 year.  
13 *previous administrative cost component* means the administrative  
14 cost component for a month in the previous financial year.
- 15 *Determinations*
- 16 (8) For the purposes of paragraph (6)(d), the Minister may, by  
17 legislative instrument, determine a single specified amount in  
18 relation to each of the months in a specified financial year.  
19 Note: See also section ^19.
- 20 (9) In deciding whether to make a determination under subsection (8),  
21 the Minister must have regard to the following:  
22 (a) the most recent advice that the ACCC has given to the  
23 Minister under section ^17;  
24 (b) such other matters (if any) as the Minister considers relevant.

### ^17 Advice by the ACCC about administrative cost component

- 26 (1) The ACCC:  
27 (a) may give advice to the Minister in relation to the exercise of  
28 the Minister's power under subsection ^16(8); and  
29 (b) must do so:

# EXPOSURE DRAFT

- 1 (i) at least once during the 5-year period beginning at the  
2 start of the first eligible financial year; and  
3 (ii) at least once during each subsequent 5-year period.
- 4 (2) In giving advice under subsection (1), the ACCC:  
5 (a) must have regard to the principle that amounts received by  
6 the Commonwealth by way of so much of charge imposed  
7 under this Act as is attributable to the annual administrative  
8 cost amount should be sufficient, over time, to offset  
9 designated administrative costs incurred after the start of the  
10 first eligible financial year; and  
11 (b) may have regard to such other matters (if any) as the ACCC  
12 considers relevant.
- 13 (3) In giving advice under subsection (1), the ACCC must assume that  
14 Division 6 of Part 3 of the *Telecommunications (Consumer*  
15 *Protection and Service Standards) Act 1999* had not been enacted.  
16 Note: That Division deals with charge offset certificates.

## 17 ^18 Indexation factor

- 18 (1) For the purposes of this Act, the *indexation factor* for a financial  
19 year is the number calculated, to 3 decimal places (rounding up if  
20 the fourth decimal place is 5 or more), using the formula:
- $$21 \frac{\text{Index number for the reference March quarter}}{\text{Index number for the base March quarter}}$$
- 22 where:
- 23 *base March quarter* means the last March quarter before the  
24 reference March quarter.
- 25 *reference March quarter* means the last March quarter before the  
26 financial year.
- 27 (2) Subject to subsection (3), if (whether before or after the  
28 commencement of this section) the Australian Statistician has  
29 published or publishes an index number in respect of a quarter in  
30 substitution for an index number previously published in respect of

# EXPOSURE DRAFT

## Section ^19

---

1 that quarter, the publication of the later index number must be  
2 disregarded for the purposes of this section.

3 (3) If (whether before or after the commencement of this section) the  
4 Australian Statistician has changed or changes the index reference  
5 period for the Consumer Price Index, then, for the purposes of the  
6 application of this section after the change took place or takes  
7 place, regard must only be had to the index number published in  
8 terms of the new index reference period.

### 9 **^19 Disallowance of determinations**

#### 10 *Scope*

11 (1) This section applies to a determination made under subsection  
12 ^12(4) or ^16(8).

#### 13 *Disallowance*

14 (2) Either House of the Parliament may, following a motion upon  
15 notice, pass a resolution disallowing the determination. For the  
16 resolution to be effective:

17 (a) the notice must be given in that House within 15 sitting days  
18 of that House after the copy of the determination was tabled  
19 in the House under section 38 of the *Legislation Act 2003*;  
20 and

21 (b) the resolution must be passed, in pursuance of the motion,  
22 within 15 sitting days of that House after the giving of that  
23 notice.

24 (3) If neither House passes such a resolution, the determination takes  
25 effect on the day immediately after the last day upon which such a  
26 resolution could have been passed if it were assumed that notice of  
27 a motion to disallow the determination was given in each House on  
28 the last day of the 15 sitting day period of that House mentioned in  
29 paragraph (2)(a).

30 (4) Section 42 (disallowance) of the *Legislation Act 2003* does not  
31 apply to the determination.

