



Australian
Competition &
Consumer
Commission

Submission to the ACMA's Consultation paper: *Proposals for reductions in telecommunications reporting requirements*, April 2014

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Introduction

The Australian Competition and Consumer Commission (ACCC) welcomes the opportunity to contribute to the Australian Communications and Media Authority's (ACMA) consultation paper *Proposals for reductions in telecommunications reporting requirements*, April 2014 (Consultation paper). In its Consultation paper, the ACMA proposes a number of measures to reduce telecommunications reporting requirements. The following proposals are of particular interest to the ACCC:

- removal of consumer information obligations for mobile premium services, and
- reduction in the data provided by industry for the 2013-2014 *Communications report*.

The ACCC's views on these proposals are set out below.

Mobile premium services

Proposed reform

Repeal of sections 11 and 12 of the Mobile Premium Services Determination 2010 (No 1) (the Mobile Premium Services Determination)

At present the Mobile Premium Services Determination obliges mobile network operators to inform consumers about how charges for premium services are accrued, and that they are entitled to bar premium SMS or MMS services and the process for doing so (section 11). At the time this obligation was introduced the ACMA described its objectives as: giving customers the ability to prevent the inadvertent or fraudulent accessing of SMS and MMS services; and providing parents and guardians with the ability to manage their dependents use of premium SMS and MMS services.¹

Prior to the Mobile Premium Services Determination being introduced, barring of premium services was not available on most networks. The Mobile Premium Services Determination serves a dual purpose which obliges mobile network operators to: provide a barring service and to inform pre-paid and postpaid mobile customers of the existence of the barring service.

The Mobile Premium Services Determination also sets out the frequency with which mobile network operators should inform consumers about the existence of the barring service. These include: within 5 days of a new mobile service being acquired, every 3 months for the first year and every 6 months thereafter, and when a customer receives a bill which contains a charge for a premium SMS or MMS service (section 12).

The introduction of the service barring component of the Mobile Premium Services Determination is a significant part of the reforms which were introduced in 2009-2010 to address the very high volume of complaints and reports of significant consumer harm in the mobile premium services industry. There was also considerable dissatisfaction with the then existing industry scheme, the Mobile Premium Services Industry Scheme, which appeared to be ineffectual in addressing

¹ Explanatory Statement, *Telecommunications Service Provider (Mobile Premium Services) Determination (No 1)*, p.3.

consumer concerns and harm. By way of background, consumer complaints about premium services escalated significantly between 2005 and 2009. The ACCC alone received around 3500 consumer complaints during that period.

Since the introduction of the Mobile Premium Services Determination and the related industry codes, consumer complaints have fallen considerably. The decline in complaints is, in the ACCC's view, due in part to the implementation of a more effective regulatory regime. The regulatory reforms strengthened the protections for consumers, particularly in relation to better information about the services being offered. Industry initiatives have also provided additional information for consumers.

However, the proliferation of smartphones and the growth of the applications (or apps) market have also contributed to the decline in mobile premium service complaints. Consumers are increasingly moving away from mobile premium services towards a new style of content delivered via apps. However, the ACCC is aware of some premium services still being offered on the Internet or via links within apps which suggests that although complaints have declined, issues with the mobile premium services industry remain.

This conclusion is also supported by the ongoing receipt of complaints about premium services by the ACCC. The ACCC's Infocentre has received around 70 complaints since January 2014 relating to premium services. These complaints mostly relate to services being provided without informed consent and without the 'double opt-in' processes being followed. For some longer term consumers, it appears that they did not receive a reminder which would have prompted them to cancel their service. Some complainants also raised issues about customer service. This snapshot suggests that the protections afforded by the Mobile Premium Services Determination should remain in place.

In 2012, the ACCC published a case study, 'Mobile premium services: meeting the challenges' which examines the issues relating to mobile premium services and the steps taken by industry, consumer representatives and regulators to address the causes of consumer detriment in the premium services industry. A copy of this case study is at: <http://www.accc.gov.au/publications/mobile-premium-services-meeting-the-challenges>. Attachment B to this document contains a summary of the ACCC's court actions against mobile premium service providers between 2008 and 2012.

ACCC views

The ACCC considers that the ACMA should not remove the obligation to inform consumers about the availability of barring premium services contained in sections 11 and 12 of the Mobile Premium Services Determination as it serves as a significant protection for consumers who utilise these services.

The ACCC is of the view that the information provisions form a key component of the consumer protections relating to mobile premium services. The ACCC suggests that the combination of effective barring measures and appropriate mechanisms to communicate relevant information to customers will ensure that consumer safeguards for these services remain effective.

However, in recognition of the declining number of complaints in this area it may be appropriate to consider a reduction in the ongoing obligations to inform consumers every 3 months and every 6

months as contained in section 12(4) of the Determination. An amendment which provides for a reminder after 3 months of a mobile service being acquired, and thereafter only if a customer is billed for a premium service may be a possible way to reduce the ongoing information obligation without removing a significant and important consumer safeguard.

Telecommunications annual performance reporting

Proposed reform

Reduction in the data provided by industry for the 2013-14 *Communications Report*, pending policy consideration of the section 105 reporting requirement.

The ACMA is required to monitor and report each financial year to the Minister on all significant matters relating to the performance of carriers and carriage service providers, with particular reference to consumer satisfaction, consumer benefits and quality of service. At present, the ACMA produces its annual Communications report to fulfil this obligation. The report is based on information gathered from a variety of sources, including its annual industry data request.

The ACCC considers that the Communications report provides a comprehensive discussion of developments in the communications sector and is a valuable resource. The ACCC uses the Communications report to better understand industry trends and developments and to inform its regulatory decisions. In particular, the ACCC uses the ACMA report to complement its own data collection activities where information is not available from other sources. The ACMA's regular collection of consistent information is particularly useful for making comparisons across the industry over time.

The ACCC considers that it is appropriate to review ongoing reporting obligations and is supportive of the ACMA's continuing efforts to reduce the industry's reporting burden. In particular, the ACCC supports the ACMA's efforts to reduce any instances of duplication or gathering data of limited value. However, the removal of any data requests should be carefully considered to ensure that gaps in important data sets do not emerge. The ACCC intends to engage further with the ACMA about its broader policy considerations associated with the section 105 reporting requirements.

ACCC views

The ACCC is of the view that the ACMA's Communications report is a valuable resource that contains important information that is not available from other sources. The ACCC is supportive of the ACMA's efforts to reduce the industry reporting burden, but considers that the broader context in which this information is collected should also be taken into account to ensure that important data sources are not lost. The ACCC will continue to engage with the ACMA about its reporting requirements and broader policy considerations.