

29 November 2007

Manager
Education & Telephone Content Section
Australian Communications and Media Authority
PO Box 13112, Law Courts
Melbourne VIC 8010

Email: NewContentRegulation@acma.gov.au



Dear Sir/Madam,

Subject: ACMA consultation paper relating to the amendment of the *Telecommunications Service Provider (Mobile Premium Services) Determination 2005 (No.1)* and a variation to the *Telecommunications Numbering Plan 1997: Submission by Communications Alliance*

Thank you for providing us with the opportunity to comment on the draft instrument prepared by the Australian Communications and Media Authority as a draft amendment to the *Telecommunications Service Provider (Mobile Premium Services) Determination 2005 (No.1)* (the MPS Determination) and a draft variation to the *Telecommunications Numbering Plan 1997* (the Numbering Plan). Our comments are set out below.

Please let us know if you have any queries regarding these comments.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'A.C. Hurley'.

Anne Hurley
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Australian Communications and Media Authority

'Telecommunications Service Provider (Mobile Premium Services) Determination

2005 (No.1)' and 'Telecommunications Numbering Plan 1997' Consultation Paper

Submission by Communications Alliance

Communications Alliance is pleased to have this opportunity to make a submission on the draft instrument prepared by the Australian Communications and Media Authority as a draft amendment to the *Telecommunications Service Provider (Mobile Premium Services) Determination 2005 (No.1)* (the MPS Determination) and a draft variation to the *Telecommunications Numbering Plan 1997* (the Numbering Plan).

The membership of Communications Alliance is drawn from a wide cross-section of the communications industry, including service providers, vendors, consultants and suppliers as well as business and consumer groups. Its vision is to provide a unified voice for the Australian communications industry and to lead it into the next generation of converging networks, technologies and services.

The following Communications Alliance members endorse this submission:

Vodafone
Hutchison 3G
Telstra
Optus

1 Introduction

ACMA's Consultation Paper requests comment on three key areas pertaining to:

1. proposed amendments to the *Telecommunications Service Provider (Mobile Premium Services) Determination 2005*;
2. two options for the remaining provisions and function of the MPS Determination; and
3. a proposed variation to the Telecommunications Numbering Plan.

Communications Alliance's comments against each are set out below.

2 Amendment to the Telecommunications Service Provider (Mobile Premium Services) Determination 2005: Repeal of Content Related Provisions

Q. ACMA seeks comment on the repeal of the content related provisions of the MPS Determination as proposed in the amending Determination at Attachment A of the consultation paper.

Communications Alliance largely supports ACMA's proposed amendments to the MPS Determination that relate to the restriction of access to content and content classification, as these will now be articulated in other instruments, such as, the Internet Industry Association's Content Services Code which is currently under development.

We have one suggested amendment:

- 5.6(1)(f)(v) should be amended to remove reference to 'age verification plan'.

3 Remaining Provisions and Functions of the MPS Determination

Q. ACMA is seeking input from industry on what is considered the most appropriate and effective structure for the mobile premium services industry.

Comment is invited on:

(1) whether the regulatory framework for the mobile premium service industry should continue in the form of the MPS Determination and MPSI Scheme, as revised as a result of the introduction of Schedule 7; or

(2) the possibility of the residual provisions of the MPSI Scheme being replaced with a registered consumer code under Part 6 of the Telecommunications Act; and

(3) if a Part 6 code is the preferred option, is it that should be implemented immediately, or considered in the longer term?

In considering a Part 6 code, it should be noted that the obligations in the MPS Determination and MPSI Scheme would need to be in force until such time as a consumer code is registered.

Communications Alliance strongly supports Option One proposed in ACMA's consultation paper, namely to replace the MPSI Scheme with a registered consumer Code under Part 6 of the *Telecommunications Act 1997*. We believe there are many reasons why the development of such a Code is optimal.

The development of a registered consumer Code would be carried out by Communications Alliance using its current operational processes for code development, implementation and administration, review, and registration of codes. The Code would adopt the existing workings under Part 6 of the *Telecommunications Act 1997*, which include conferral of power to handle complaints by the Telecommunications Industry Ombudsman, and ACMA's existing Code enforcement and compliance regime. The existing administrative rules pertaining to setting up a complaints handling agency and its powers, and the approval and varying provisions surrounding the self-regulatory scheme, that are currently contained in the MPSI Scheme and MPS Determination, would become redundant.

This registered consumer Code would therefore contain the same set of consumer protection rules, non-content related complaints handling arrangements and enforcement powers that currently exist in the MPSI Scheme, however, the rules would be contained in a more slim-lined instrument. The existing supporting guidelines would be developed to reflect the new regime and Code provisions. The Code would be streamlined because unlike the existing MPSI Scheme, the relevant registration, variation, enforcement and complaints handling matters are dealt with in Part 6 of the *Telecommunications Act 1997*. The overall objective would be to achieve the same consumer protection outcomes but via the adoption of the existing code regulatory framework.

The creation of this registered consumer Code would also allow for the complete repeal of the MPS Determination. This would have the benefit of reducing the scope of regulatory instruments in the telecommunications landscape, streamlining the regulations imposed on the telecommunications industry, and giving consumers additional certainty and

confidence with respect to industry's measures to promote consumer' use and enjoyment of mobile premium services.

Communications Alliance also considers that the development of such a registered consumer Code could be an interim measure to the inclusion of mobile specific rules into the Telecommunications Consumer Protections Industry [TCP] Code. This next step would again further reduce the number of telecommunications regulatory instruments in existence.

In terms of the timing for the implementation of such a registered consumer Code, we believe this is something that can be achieved in the near future and is a natural corollary to the work already well underway against the review of the MPSI Scheme.

We have set out below an indicative timeline [Table A] which charts the various steps required for the development of the Code.

Table A: Proposed timing for MPSIS Review and Code Development

#	Activity	Proposed Timing / due by date ¹	Responsible
1.	INAUGURAL REVIEW <ul style="list-style-type: none"> Complete all revisions for 12 month review MPSIS & Guideline *Current work approx. 90% complete	End Nov 2007	Comms Alliance MPSIS Working Group
2.	CONSULT WITH REGULATORS/STAKEHOLDERS Key consultations to occur with: <ul style="list-style-type: none"> TIO ACCC Privacy Commissioner – OPC Consumer Group 	31 Jan 2008	Comms Alliance
3.	ACMA CONSULTATION Review outcome of ACMA's current consultation on Determination and development of Mobile Premium Services Code under Part 6 Telco Act	Dec 2007/ Jan 2008 [no specific date is known at this time]	Comms Alliance
4.	SCHEME CONVERTED TO CODE Convert MPSIS & Guideline to a Code and Guideline Ensure Code reflects all changes noted in Determination and compare/contrast against IIA Content Services Code	End Feb 2008	Comms Alliance
5.	REVIEW DRAFT CODE Review of draft Code and accompanying Guideline by MPSIS Working Group before being released for public comment	31 March 2008	Comms Alliance MPSIS Working Group
6.	CODE RELEASED FOR PUBLIC COMMENT	March / April	na

¹ These are indicative timings only and will most likely change several times during the project's lifespan

#	Activity	Proposed Timing / due by date ¹	Responsible
	Copy of draft Code and accompanying guideline [which includes all draft changes coming out of 12 month review exercise] released for public comment for 4 weeks	2008	
7.	REVIEW PUBLIC COMMENTS Review all public comments, make any necessary amendments and finalise code and guideline for publishing	31 May 2008	Comms Alliance MPSIS Working Group
8.	PUBLICATION OF CODE	May / June 2008	Comms Alliance
9.	SUBMIT CODE TO ACMA FOR REGISTRATION	May / June 2008	Comms Alliance
10.	REMOVAL OF MPSD	Post-code registration	ACMA
11.	MOBILE SPECIFIC PROVISIONS INCLUDED IN TCP CODE	2 years post TCP Code Registration Approx 2010	Comms Alliance

4 Variation to the Telecommunications Numbering Plan - 195 and 196 Prefixes

Q. ACMA seeks comment on the variation to the Numbering Plan to set out the prefixes on which age-restricted services can be accessed as proposed in Attachment B of the consultation paper.

Communications Alliance largely supports ACMA's proposed variation to the Telecommunications Numbering Plan that relate to 195 and 196 prefixes on the basis that the existing provisions in relation to these services remain the same. As indicated in the ACMA Discussion paper, the variation should not have any additional effects and implications to those parties already subject to the MPSD.

We have a number of suggested amendments:

- At [6] of the draft *Telecommunications Numbering Plan Variation 2007 (No.)* it seeks to introduce the definition of 'mobile premium service' from the Determination. This includes a reference to 'proprietary network service' and introduces changes at [8].
- The impact is that in [2] new clause 3.37A(3)(b) where it refers to mobile premium services - this would include proprietary network services.
- As a result we do not see the relevance of this inclusion and think the definition of 'mobile premium service' should be amended and [8] removed.

Communications Alliance further submits that the potential usage for the 195 and 196 age-restricted number range should be broadened beyond pure SMS/MMS to include other service types such as voice, text and video. These other service types should be subject to the same adult content restrictions that apply to SMS/MMS, however, we put forward that there is no need for the 195 and 196 number range to be reserved for SMS/MMS only.

Communications Alliance would be happy to discuss any aspect of this submission and thanks ACMA for the opportunity to provide comments against the Consultation Paper.

