

**COMMUNICATIONS
ALLIANCE LTD**



**Australian Communications and Media Authority's
Consultation on the review of the Telecommunications Service
Provider (Mobile Premium Services) Determinations 2010 (No.
1) and (No. 2)**

Submission by Communications Alliance

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Australian Communications and Media Authority
Review of the Telecommunications Service Provider (Mobile Premium Services) Determinations 2010 (No. 1) and (No. 2)
Consultation Paper
Submission by Communications Alliance

1 INTRODUCTION

Communications Alliance is pleased to have the opportunity to comment on the Australian Communications and Media Authority's Consultation Paper on the review of the Telecommunications Service Provider (Mobile Premium Services) Determinations 2010 (No. 1) and (No. 2) (the Consultation Paper).

Communications Alliance believes it is in the best interests of industry, customers, regulators and government that the industry takes responsibility for assisting with the development of practical consumer protection measures which facilitate both increased consumer confidence and opportunities for industry growth.

In doing so, Communications Alliance seeks to facilitate open, effective and ethical competition between service providers while ensuring efficient, safe operation of networks, the provision of innovative services and the enhancement of consumer outcomes.

The themes presented in this submission reflect the views expressed by the members of Communications Alliance involved in the delivery of premium sms/mms in response to the Consultation paper. Those members comprise the majority of providers involved in the delivery chain, that is mobile carriage service providers,, aggregators and content providers.

The structure of this submission reflects industry's response to the key issues raised by the ACMA in the Consultation Paper. Based on experience as facilitator of industry outcomes over more than a decade, Communications Alliance has provided constructive responses to the questions posed by the ACMA. Members of Communications Alliance may also make individual submissions directly to ACMA following consideration of the Consultation Paper. This submission is intended to represent a consolidation of industry's position which complements the submissions of individual members but does not derogate from the individual positions advanced.

About Communications Alliance

Communications Alliance is the primary telecommunications industry body in Australia. Its membership is drawn from a wide cross-section of the communications industry, including carriers, carriage and internet service providers, content providers, equipment vendors, IT companies, consultants and business groups. Its vision is to provide a unified voice for the telecommunications industry and to lead it in-to the next generation of converging networks, technologies and services.

The prime mission of Communications Alliance is to promote the growth of the Australian communications industry and the protection of consumer interests by fostering the highest standards of business ethics and behaviour through industry self-governance.

For more details about Communications Alliance, see

<http://www.commsalliance.com.au>.

2 EXECUTIVE SUMMARY

Industry supports the role of the mobile premium services service provider determinations, which provide a layer of consumer protection additional to the rules set out in the Mobile Premium Services Industry Code. In tandem with current industry compliance monitoring activities, the Determinations and the Code constitute a suite of protections for users of mobile premium services that have served to drive complaints to the TIO down by more than 75% since the implementation of the Code in July 2009.

Industry supports the current framework and application of the Do Not Contract order as set out in Determination No.2, noting that it enhances the effectiveness of the Mobile Premium Services Industry Register as a regulatory instrument. Industry also supports the framework and application of the Do Not Contract order in Determination No. 2 as it provides the ACMA with a practical means of effectively deterring systemic and/or gross examples of non-compliance with the Mobile Premium Services Code. The position of this submission is that Determination No.2 does not require any amendment and accordingly this submission does not provide any commentary on the review of Determination No.2.

Noting the above, the focus of this submission is on the Telecommunications Service Provider (Mobile Premium Services) Determination (No. 1) (the Barring Determination). In relation to the review of this instrument, industry considers it to be an appropriate accompaniment to the Code's existing suite of expenditure management tools that have contributed to the significant decline in complaints, as it allows customers the choice of whether they would like to use and receive PSMS services. Feedback from consumer representatives during the recent revision of the Mobile Premium Services Code confirmed that this set of expenditure management tools, of which the Barring Determination is one, were providing consumers with the appropriate levels of protection and did not warrant any further strengthening.

Industry does, however, have concerns with the Barring Determination's requirements relating to the provision of information of the availability of a barring facility to consumers. In particular industry believes that the information notification relating to the availability of barring that is to be provided to post-paid customers should be aligned to that provided to prepaid customers. This submission proposes that the occasions when information notifications about barring are required should be streamlined as the requirements relating to the ongoing provision of this information in billed messages and each time a customer receives a bill with a PSMS charge on it are no longer warranted. Industry proposes that this requirement should be amended to stipulate that mobile carriage service providers (CSPs) should provide this information to customers when they acquire a PSMS service; make an

inquiry or complaint about a PSMS Service; and/or make an enquiry about barring a PSMS service,

3 RESPONSE TO QUESTIONS (RE: BARRING DETERMINATION)

Has barring premium messaging services (at the customer's request) been an effective method for enabling customers to control expenditure on these services?

Yes, industry agrees that allowing customers to decide whether their mobile device can receive and be charged for premium rated services provides them with an effective way to control their expenditure. Combined with the consumer protections available in the Mobile Premium Services Code, the ability for customers to bar their mobile from PSMS services provides an easy, effective and failsafe method for customers to manage these services.

Are the methods for barring premium messaging services that are currently available to customers appropriate and convenient?

Yes, industry supports the current methods available to its customers wanting to bar their service from PSMS as past experience indicates that customers find these methods convenient, effective and easy to use.

Is the time frame for ceasing to charge for premium messaging services appropriate?

Yes, industry is able to activate the barring request within one business day of its receipt, although, in most cases the barring will be implemented on the spot following the customer's request.

Are the current information requirements, including the frequency of provision, appropriate?

Industry considers there is an opportunity to streamline the current information mobile CSPs are required to provide to their post-paid mobile customers while maintaining its effectiveness as a mechanism to alert customers that they can bar their services from receiving PSMS. The information that carriers are required to provide to their customers under clause 11 (2) is arguably excessive and extraneous to the main purpose of the Determination, which is to notify customers they can bar their mobile service from accessing or receiving PSMS services. For example, industry argues that information regarding how long it will take for the barring to take effect, that barring will not affect the customers other services etc. can be communicated more effectively on the carriers website or via their customer service consultant. We believe this information should be made equivalent to the information provided in messages that are sent to pre-paid customers i.e. "you can bar all premium SMS and MMS services. For more information about these services and barring, phone [insert number] or visit [insert website]".

In addition, the requirement for mobile CSPs to notify customers once every 3 months in their first year and every 6 months in subsequent years, combined with a requirement to notify customers who receive a PSMS charge on their bill, could result

in customers receiving a notification at least 6 times in two years and potentially up to 24 times in that period. This would appear to be an unwarranted excess of messages sent to customers purely for the purpose of advising them of a barring facility.

As an alternative to the current notification requirements, industry suggests that CSPs be required to provide the required information on their websites and in introductory information provided to new customers. For example, industry's experience is that customers will contact CPs or CSPs directly should they have any questions, concerns or complaints regarding PSMS billing issues, thus prompting customers via a bill message may not achieve the ACMA's desired objective. We suggest it would be more effective and efficient to provide the relevant information to customers at the time they need it i.e. for new customers at the point of sale or in post-sale material, and for existing customers at the time that they contact the supplier in relation to a PSMS issue.

4 CONCLUSION

Industry is committed to working closely with the ACMA to ensure that there are appropriate and effective community safeguards in place in the provision of premium sms/mms services, and that compliance is at the forefront of all activity.

Industry would welcome the opportunity to discuss the issues raised in this submission in greater detail with the ACMA.

5 CONTACTS

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