

Communications Alliance and AMTA submission to the ACMA

Proposed changes to international mobile roaming
regulations

IFC 29/2019

9 September 2019



Introduction

Australian Mobile Telecommunications Association (AMTA) and Communications Alliance (the Associations) welcome the opportunity to respond to the Australian Communications and Media Authority's discussion paper on proposed changes to international mobile roaming (IMR) regulations.

The Associations strongly support and welcome the administrative change in regulation from a Standard to a Determination as we believe this will provide greater flexibility for industry, which will, in turn, deliver improved consumer protections and outcomes.

We have provided comments on the draft Determination below, as well as responses to some of the questions included in the discussion paper.

Comments on the draft Determination

We recognise and appreciate the ACMA's intention to incorporate greater flexibility in the draft Determination. There are, however, several instances where we believe that the proposed changes could result in unintended consequences due to overly prescriptive requirements.

For example, we understand that the instrument has been drafted to enable greater flexibility around how notifications can be delivered to customers. However, this drafting, has actually introduced a level of prescription greater than originally intended, by mandating the choices that must be offered to customers by providers. We suggest that the rule should be drafted so as to enable providers to offer choices to the customer, should they have the technical capability to do so, but without specifying what those choices must include. The underlying principle of this rule is that customers should receive notifications that are easily accessible (depending on device) and that they should be able to choose between preferred methods of notification, where available and appropriate. The obligation on service providers should be to provide timely and accessible notifications. Prescribing

how notifications should be offered to customers is unnecessary and introduces a layer of regulatory burden that was previously not in the Standard.

Timeframe for transitional arrangements

We note the proposed timeframe is for the Determination to commence from 1 January 2020 which may give providers only a two- month transition period, if the Determination is made in October 2019.

Association members have advised that the likely IT and system changes required to comply with the draft Determination (based on the current drafting) would take 12 months to implement.

We also note that members have advised it can be difficult to schedule IT work over the Nov-Dec period. The majority of service providers have embargoes on system changes at that time of year, due to it being the time of peak customer demand for both device purchases and network traffic.

We therefore strongly suggest further consultation on the timeframes, as the draft Determination is finalised, so that service providers are allowed a reasonable time for any implementation work that is required. Further, MVNOs may, in some cases, require longer as the work they may need to undertake could have dependencies on system changes to be made by MNOs.

Exempt services

The Associations believe that some services (including satellite services and roaming only services) currently offered in Australia should be exempted from compliance with the Determination.

Specifically, the Determination assumes that an IMR service will always cost more than the customer would pay for the use of the service within Australia. This is an incorrect assumption. Some services today, such as satellite services cost no more to use outside of Australia than within. In the past, one service provider allowed use of the mobile telecommunications service in New Zealand at no additional cost.

Further, the Associations note that under the existing Standard, such services have been given an informal exemption by the ACMA. These services include satellite and/or roaming only services. These services are designed for roaming and the customers expectation is that they will be roaming with these services and understand the rates that will apply for the service they have purchased for this very purpose. We suggest that the exemption for these services be formalised in the drafting of the Determination to provide greater certainty for providers around compliance.

Or, preferably, the Determination should be drafted so as to not capture these types of services. We suggest that this could be achieved by changing the definition of 'international mobile roaming service' so that the Determination only applies where a consumer is charged more for the use of the service outside of Australia. The associations suggest:

international mobile roaming service means a carriage service that enables a mobile subscriber to automatically and seamlessly do any or all of the following:

- (a) make, send, access or receive voice calls, SMS or MMS;
- (b) download and upload data,

when travelling overseas outside the normal coverage area without losing the connection **and where the cost of the service is greater than normally applies while the service is used within Australia.**

A further definition of 'Australia' could be added that was consistent with the Telecommunications Act 1997.

Responses to questions in the discussion paper

1. **Does the draft IMR Determination appropriately define the range of devices that are to receive alerts and notifications about IMR?**

Yes.

2. **Does the draft IMR Determination effectively allow a customer to select a preferred method of communication?**

Please see our comments above. While we support having the flexibility for customers to select a preferred method of communication, we do not believe that the Determination should prescribe how that choice should be provided to customers. Rather, the provider should have the flexibility to tailor their offer of accessible notification methods depending on their technical capabilities.

The Associations note that in Section 7 (4) it states that the preferred method of communication referred to in subsection (2) must be offered to a customer for selection in relation to each IMR service of the customer.

We are concerned that the requirement to offer a Customer a choice of communication method for each Service they own will be unduly onerous and impractical to implement.

Typically, all the services a single customer owns will belong to a single account. It is both time consuming and confusing for the customer to have to make their preference for each service individually.

Generally, communication options are set at an account level, and not a service level, so having one service with, say, notification by text and another with notification by email will require significant IT development to achieve.

Our preference is for a customer to nominate their chosen method of notification (where a provider can offer this) and that if a service would not support that method that we then fall back to a method by which the notification can be delivered.

Finally, the draft Determination in 7(3) currently specifies that a customer should be offered the choice of preferred communication method prior to entering into a contract. We believe that this is impractical as the provider will not be able to record a customer's preference until after they have entered into a contract and a customer relationship and account profile exists for the customer.

3. Does the draft IMR Determination provide appropriate flexibility around message content while ensuring key information is conveyed to the customer?

No, we believe there is not adequate flexibility in relation to message content. Clause 8(2) (a) requires an explicit warning messaging to be sent by a mobile network operator. This explicit warning message could be alarming, depending upon the customer's plan and arrangements with their service provider. We believe that this needs to be changed to enable a more flexible approach in recognition that there is now a wide range of plans and IMR offerings available in the market. There should be an ability for a mobile network provider and their MVNO to tailor messages to the customer's needs and particular service offering.

4. Under section 4 (definition of 'maximum charge information') of the draft IMR Determination, the 'maximum charge information' that must be provided may differ depending on whether a customer is accessing IMR services via an included value pack, an IMR service inclusive plan, or in any other way. Are there any other types of IMR products or arrangements, or charging information, that should be specified in the IMR Determination?

The approach taken in the definition may not stand the test of time. Trying to capture all the variables of product arrangements that may exist into the future is not practicable. The Determination should be flexible enough to cater to any and all future product constructs to ensure a result based on a principles approach. i.e. if a customer uses the service overseas and will bear a higher cost for use of that service in that location, they should receive a message advising of the applicable costs for any use of that service. Associations suggests an alternative approach, such as:

maximum charge information means the maximum amount payable in AUD where a customer uses the international mobile roaming service in an overseas country for each relevant type of service available (e.g. voice, data, MMS or SMS) and will bear a higher cost for use of the service in that country.:

or

maximum charge information means:

in relation to a customer's use of telecommunications services in an overseas country, any charge which is above an amount that the customer would pay for use of the telecommunications service within Australia, excluding any credit or payment plan made in advance of arriving in an overseas country that specifically dealt with international roaming costs associated with use of the

telecommunications service in that country, including the maximum cost in AUD for sending and receiving:

- (a) a one minute call (or another appropriate measurement relevant to the customers plan);
- (b) a MMS
- (c) a SMS
- (d) one megabyte of data (or another appropriate measurement relevant to the customers plan e.g. cost per 500Mb of data where data cost is in multiples of 500Mb).

5. Does the draft IMR Determination appropriately deal with the way charging information relating to multiple countries is sent?

No. While adding additional flexibility for individual countries, there are historic international charging zones that are not based on a country. For example, Macau and Hong Kong, while recognised as in China, are in a separate charging zone for international roaming. It would be preferable to make clear the intent of the Determination by adding a definition of 'country' to recognise these historic charging zones. Such as:

country means a nation with its own government, or a unique territory or district that has a different interconnect charging arrangement within that nation.

6. Does the draft IMR Determination appropriately deal with notifying customers of charges from the time they exceed any included value in their mobile plan?

Yes.

7. Does the draft IMR Determination appropriately define a small business consumer?

Yes, this aligns with the TCP Code.

8. Is it appropriate that the draft IMR Determination replaces 'nominal fee' with a specific amount equal to \$1.00?

Yes.

9. Do you consider that transitional arrangements (to allow time for providers to comply with the IMR Determination) are necessary, and if so, should they be longer or shorter than proposed? If you do consider that particular transitional arrangements are necessary, please provide evidence or information to support your view.

Please see our comments above. We suggest that further consultation will be necessary around transitional arrangements and timeframes, as depending on the implementation work that is required, providers will need longer to make the necessary changes, most likely at least 12 months.

For any further questions relating to this submission please contact Lisa Brown, Public Policy Manager, AMTA at lisa.brown@amta.org.au or Craig Purdon, Communications Alliance at c.purdon@commsalliance.com.au.