

EXPLANATORY STATEMENT

Issued by the authority of the Australian Communications and Media Authority
Telecommunications Act 1997

Telecommunications Numbering Plan Variation 2005 (No.3)

Statutory basis

Section 455(1) of the *Telecommunications Act 1997* (the Act) provides that the Australian Communications and Media Authority (ACMA) must, by written instrument, make a plan for the numbering of carriage services in Australia and the use of numbers in connection with the supply of such services. The instrument is known as the *Telecommunications Numbering Plan 1997* (the Plan). Section 455(10) of the Act allows ACMA to vary the Plan.

Background

Purpose of the Variation

The purpose of the proposed variation is to correct minor errors, clarify ambiguities and remove redundant components from the Plan. These amendments have been identified as part of an ongoing review of the Plan by ACMA staff and do not materially alter the substance of the Plan. The proposed changes are minor and machinery in nature and there is a precedent for making such changes in order to provide consistency within the Plan.

In addition to accommodate the delayed commencement of the ENUM trial this variation provides for the extension of the use of ENUM trial numbers by providing an additional 18 months.

Consultation

Section 460(3)(a) of the Act requires that the public be consulted about any variations to the Plan, if ACMA is of the opinion that:

- (i) the variation will affect a number issued to a customer; and
- (ii) the variation has not been declared by ACMA to be a declaration of a minor nature.

ACMA's opinion is that this is a variation which does not affect a number issued to a customer. ACMA has also made the relevant declaration.

Section 460(3)(b) of the Act provides that ACMA should also engage in public consultation if it is in the public interest that the public in a particular State should be consulted about a variation.

ACMA does not believe that it would be in the public interest to undertake public consultation in this instance. ACMA came to this view on two bases. Firstly, the proposed variations arose from discussion with the Numbering Advisory Committee (NAC). NAC is constituted by representatives from industry, consumer organisations, equipment manufacturers and government departments including the Department of Communications, Information Technology and the Arts and the Australian Competition and Consumer Commission (ACCC). NAC members were also invited to comment upon the draft variation before 15 September 2005. Secondly, ACMA has had regard to

section 18(2)(a) of the *Legislative Instruments Act 2003* which sets out examples of circumstances where consultation may be unnecessary or inappropriate. In particular, consultation may be unnecessary or inappropriate in the case of “an instrument that is of a minor or machinery nature and does not substantially alter existing arrangements”. ACMA considers that the proposed variations are minor and machinery in nature and do not substantially alter existing arrangements.

ACMA is also required under section 461 of the *Telecommunications Act 1997* to consult with the ACCC before “making or varying a numbering plan”. ACMA invited comment from the ACCC in relation to the proposed variations. The ACCC indicated that it had no comments in relation to the different amendments to the proposed variation.

The Office of Regulation Review has granted a Regulatory Impact Statement Exemption (reference ID 7595) in relation to the proposed variation.

Details of Variation

Section 1 provides that the variation may be cited as the *Telecommunications Numbering Plan Variation 2005 (No. 3)*

Section 2 provides that the variation takes effect on the day after it is registered.

Section 3 specifies that the Plan is being varied as set out in the attached Schedule 1.

Section 4 provides that variations made by items [6] and [7] in Schedule 1 of this variation apply to applications to vary an allocation that have been made but not decided prior to the date of commencement of the variation.

Schedule 1: Variations

Item 1 removes the redundant reference to rules related to network activation of numbers in the title of Chapter 8 as set out in section 1.2 of the Plan.

Item 2 deletes the reference at subsection 5A.6(3) to ACMA’s street address and stipulates that an allocation application for an international signalling point code (ISPC) must be sent to ACMA in a manner specified by ACMA.

Item 3 inserts a provision at subsection 5A.26(6) to allow ACMA to withdraw ISPCs from a carriage service provider that has ceased its business. The Plan presently makes no provision for withdrawal of ISPCs in these circumstances.

Item 4 reduces the time at subsection 5A.27(2) within which the operator of an ISPC may provide ACMA with reasons why it should not withdraw an ISPC in accordance with section 5A.26 from 22 working days to 20 working days. This provides consistency with other references to decisions-making periods throughout the Plan.

Item 5 inserts a provision at subsection 5A.27(3) to include an obligation on ACMA to make a decision within 20 working days of receiving a written objection to the withdrawal of an ISPC. This is consistent with other provisions throughout the Plan and promotes clarity and certainty for applicants.

Item 6 inserts a provision to enable ACMA to refuse an application under section 6.33(1) to vary an allocation if it is considered that the misallocation was deliberate. The proposed variation extends ACMA's powers to refuse reallocations where misallocation occurs and this provides a further safeguard for other carriage service providers, customer or end-users from potential disadvantage.

Item 7 makes provision at paragraph 6.33(1)(b) for numbers to be rezoned to an SZU in a different charging district to that in which the original allocation was made. The charging district must share the same prefix as the charging district in which the original allocation was made, and the SZU to which the allocation is varied must be adjacent to the original SZU. This provides greater flexibility as it provides for numbers to be rezoned to an SZU in a different charging district sharing the same prefix as the original allocation, where the two SZUs are adjacent.

Item 8 subsection 7.1A(3) is amended to include a statement that the rules in Chapter 7 do not apply to ISPCs. The rules relating to transfer, surrender and withdrawal of numbers to ISPCs are already self-contained in Chapter 5A and the reference in Chapter 7 is therefore redundant.

Item 9 removes the redundant reference to rules related to network activation of numbers in the title of Chapter 8. These rules no longer apply and are being removed from the Plan.

Item 10 removes the reference to network activation of numbers at subsection 8.1(3) as these rules are being removed from the Plan.

Item 11 removes Part 3 of Chapter 8 from the Plan. Part 3 sets out the rules relating to the network activation of numbers. Section 8.7 specifies that Part 3 will cease to apply when an industry code is registered, or 12 months after the commencement of the Plan, whichever is the earlier. As the 12 month period has elapsed these rules no longer apply and are now being removed.

Item 12 deletes subsection 9.12(4). This variation has the effect of removing references to Schedule 10 of the Plan that has previously been removed.

Items 13, 14 and 15 deletes each mention of "by the end of" and insert "within", and deletes each mention of "by the end of 4 weeks" and insert "within 20 working days". These variations remove ambiguity of interpretation from sections 11.30, 11.31 and 11.32. A previous variation to the Plan omitted all references to "decision making periods" and inserted "working days".

Item 16 replaces the name of the Charging District “Neerim Creek” with “Neerim South” which is the correct name.

Item 17 delete a reference to the redundant prefix (06) 2 in Schedule 2.

Item 18 corrects a typographical error in Schedule 2.

Item 19 provides for the extension of the ENUM trial for a further period of 18 months. This extension is to accommodate the delayed commencement of the trial and was provided for in the initial provisions for the trial.

Item 20 imposes an obligation on carriage service providers to disclose outstanding payments owed to the ACMA when making an application for additional numbers.