

EXPLANATORY STATEMENT

Issued by the authority of the Australian Communications and Media Authority

Telecommunications Act 1997

Telecommunications Numbering Plan Variation 2011 (No.1)

STATUTORY BASIS

Under subsection 455(1) of the *Telecommunications Act 1997* (the Act), 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. This is known as the *Telecommunications Numbering Plan 1997* (the Numbering Plan).

The ACMA has varied the Numbering Plan, by written instrument, titled the *Telecommunications Numbering Plan Variation 2011 (No.1)* (the instrument). The instrument has been made in accordance with subsection 455(10) of the Act (which sets out the matters the ACMA must have regard to in varying the Numbering Plan).

PURPOSE OF THE VARIATION

The purpose of this variation is to make amendments to the Numbering Plan which increase regulatory certainty for industry as well as ensure that consumers are better informed about the implications of their service choices.

This variation recognises the realities of newer services such as Voice over Internet Protocol (VoIP) and accommodates the existing practices of VoIP providers by:

- allowing the use of geographic and location independent communication services (LICS) numbers for carriage services which are only capable of making outgoing calls; and
- providing a framework governing the use of geographic numbers when used for carriage services outside their normal area that requires carriage services providers (CSPs) to give certain information to potential customers regarding the limitations of those services.

BACKGROUND

Paragraph 455(5)(e) of the Act, provides that the Numbering Plan may set rules relating to the use of allocated numbers in connection with the supply of carriage services to the public in Australia, including rules about the issue of allocated numbers by carriage service providers to customers.

By and large the current rules were put in place in 1997. Since then, the number of carriage service providers has grown and the technologies used to deliver

phone services have changed considerably including, for example, the introduction of VoIP.

In November 2005, the Minister published a government report outlining a policy and regulatory framework for VoIP services. In 2007, consistent with the framework, the ACMA at the request of government specified a new number range for LICS which were allocated the 0550 range.

In April 2008, the ACMA outlined its regulatory approach to VoIP services. This included: reviewing how existing regulation applies to all kinds of VoIP service offerings; industry and consumer engagement; and implementing a specific compliance program.

The ACMA undertook desktop research into the use of geographic numbers by VoIP services between May and June 2008. The research showed that almost all (45 out of 46) VoIP CSPs investigated were using numbers in a way that did not appear to be consistent with the Numbering Plan.

The research also revealed that the numbering rules were ambiguous in three areas and were problematic to enforce.

In December 2008, the ACMA released a discussion paper entitled *Geographic Numbering Rules – Enforce, Evolve or Replace* (the 2008 paper) that outlined the three issues that had been identified in the research:

- the use of numbers by outbound only services
- the geographic numbering rules
- the movement of numbers between CSPs.

Following the previous consultation, the ACMA released a further discussion paper on 1 April 2010 entitled '*Geographic Numbering Amendments*' which set out some proposed changes in relation to the first two of the abovementioned issues. The third issue was not pursued given broad opposition from industry.

The changes suggested in the discussion paper were to:

- allow the use of geographic and LICS numbers for carriage services which are provided for making outgoing calls; and
- provide a framework governing the use of geographic numbers when used for carriage services outside their normal area that requires carriage services providers to give certain information to potential customers regarding the limitations of their services.

The proposed amendments are intended to increase the flexibility of the Numbering Plan so that it accommodates current practice, whilst incorporating suitable protection for consumers. The ACMA believes this approach will accommodate new services within the Numbering Plan whilst providing robust and enforceable arrangements.

CONSULTATION

Public consultation was conducted in accordance with section 460 of the Act, which requires at least a 30-day public consultation period. The '*Geographic Numbering Amendments*' discussion paper was published on the ACMA's website on 1 April 2010 and a notice was placed in *The Australian* newspaper on 10 April 2010 inviting public comment by 31 May 2010. The draft legal instrument associated with the proposed changes was also published on the ACMA website.

As required under s 461 of the Act, the ACMA also consulted with the Australian Competition and Consumer Commission (ACCC).

REGULATORY IMPACT

A Regulation Impact Statement was prepared and assessed to be adequate by the Office of Best Practice Regulation.

NOTES ON SECTIONS

Section 1 provides that the variation may be cited as the *Telecommunications Numbering Plan Variation 2011 (No.1)*.

Section 2 provides that the instrument commences on 1 February 2011.

Section 3 specifies that the Numbering Plan is amended as set out in the Schedule 1.

Schedule 1 Variations

Item 1 provides a definition of the term, ***relevant charging district***, in relation to a geographic number.

Item 2 inserts subsections after subsection 3.4(4) which provide that, if a CSP offers to supply a carriage service to a customer and calls to that service will terminate at a location that is not in a charging district for the number in Schedule 2, the CSP must advise potential customers of limitations on the provision of the service, in relation to portability of the number and the charging of calls to that number. The CSP must also obtain an acknowledgement that a customer understands these limitations before entering into an arrangement for supply of the service. However, if an Industry Code is developed to deal with the provision of such information, and the Code is registered under Part 6 of the Act and applies to a particular CSP, that CSP does not need to comply with the corresponding rules in the Numbering Plan.

Items 3 and 4 insert subsections after subsections 3.5(3) and 3.7(2) respectively which have a similar effect to Item 2.

Item 5 replaces Part 5 to Schedule 7. This Part contains guidelines for CSPs when applying for geographic or LICS numbers for use in connection with a service

using Internet Protocol technology (such as VoIP). Part 5 has been updated to state that, when applying for geographic numbers, a CSP must be able to show that it is able to meet the notification requirements in subsection 3.4(4B). (This requirement is also reflected in the Call Charges column of the table.)

Item 6 replaces the definition of ***local service***. The new definition provides for a carriage service which is provided only for making outgoing calls. This is intended to allow geographic numbers to be used with services provided for making outgoing calls but which do not receive incoming calls.

Item 7 amends the definition of ***location independent communications service*** to include a carriage service which is provided only for making outgoing calls. This is intended to allow LICS numbers to be used with services provided for making outgoing calls but which do not receive incoming calls.