**EXPLANATORY STATEMENT**

Issued by the Authority of the Minister for Broadband, Communications and the Digital Economy

*Telecommunications Act 1997*

*Australian Communications and Media Authority (International Mobile Roaming Industry Standard) Direction (No. 1) 2012*

Authority

Subsection 125AA(4) of the *Telecommunications Act 1997* (the Act) provides that the Minister may, in writing, direct the Australian Communications and Media Authority (ACMA) to determine an industry standard that applies to particular participants in a specified section of the telecommunications industry and deals with one or more specified matters relating to the telecommunications activities of those participants; and to do so within a specified period.

Purpose

The purpose of this Direction is to require that an industry standard be made within nine months that requires telecommunications providers of international mobile services to implement certain specified consumer awareness measures.

The industry standard will require participants in the Australian telecommunications industry providing international mobile roaming services to provide users of international mobile roaming services with easily understood information about the services and the ability to ‘stop’ those services, once they are overseas.

It may also require participants in the Australian telecommunications industry providing international mobile roaming services to provide to users of international mobile roaming services tools to allow them to monitor and manage the cost and their use of international roaming services, once they are overseas.

It will build on and complement the *Telecommunications Consumer Protection Code* which already contains some requirements to provide specified information to users of IMR services before departure.

Examples of possible measures that might be covered or explored in developing the standard are set out in Table 1 below.

Table 1. Possible consumer awareness measures

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|  | **Example of possible measures** |
| On purchase and before departure overseas | Information about a consumer’s ability to opt in or opt out of particular IMR services or IMR services for particular countries. |
| On arrival and while overseas | On arrival, a SMS or similar messaging alerting consumers to the ‘premium’ nature of IMR services (ie, that IMR services are charged at a premium rate), including provision of specific relevant pricing information in easy to understand language, and details of where to obtain additional information, such as a freecall service, and a capability to opt-in or opt-out of the service. Examples of matters about which a consumer might be notified might include the cost of a 2 minute call in the overseas country, the cost of a 2 minute call to Australia, the cost of a SMS and the cost of a measure of data. Development of user friendly tools to manage IMR services and where more information can be obtained while overseas. Measures might include, but need not be limited to: * Instructions on how to turn off roaming services for one or more of voice, SMS and data services;
* enabling end users to choose between a cap or extending the service. If the latter, pricing information should be provided to facilitate a decision by the end user as to a pricing plan;
* to the extent technically feasible, for post paid services, alerts relating to percentage or dollar limit warnings and progressive total spends totals for voice, SMS and data;
* to the extent technically feasible, for prepaid, alerts based on remaining credit; and
* alerts would include a note on the accuracy and timeliness of information if relevant (recognising that some information relies on systems of overseas providers).
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Background

Under subsection 125AA(1) of the Act, the ACMA may, by legislative instrument, determine an industry standard that applies to particular participants in a specified section of the telecommunications industry and deals with one or more specified matters relating to the telecommunications activities of those participants.

Subclause 112(2) of the Act relevantly provides that the Parliament intends that, in exercising its powers under section 125AA, the ACMA will act in a manner that, in the opinion of the ACMA, enables public interest considerations to be addressed in a way that does not impose undue financial and administrative burdens on participants in the telecommunications industry.

Examples of matters that may be dealt with by industry standards are set out in s113 of the Telecommunications Act.

Under subsection 125AA(3) of the Act, the ACMA must consult with the body or association that represents the relevant section of the telecommunications industry before determining a standard under subsection (1).

Subsection 125AA(5) of the Act provides that the ACMA must not determine a standard under subsection 125AA(1) except in accordance with a direction from the Minister under subsection 125AA(4).

Notes on clauses

Clause 1 provides for the citation of the Direction.

Clause 2 provides that the Direction will be registered on the Federal Register of Legislative Instruments and will take effect on the day after its registration.

Clause 3 provides that the Direction will cease on the day after the proposed Industry Standard comes into effect.  A cessation date is included to overcome the requirement for the Direction to be revoked at a future date, once its effect is finished. The cessation date which has been chosen is one day after the Industry Standard comes into effect.

Clause 4 defines the terms used throughout the Direction. A note is included to remind the readers that the terms ‘carriage service’ and ‘carriage service provider’ are defined in the Act.

Clause 5 requires the ACMA to make an Industry Standard which applies to all Australian providers of international mobile roaming services; and which covers the matters set out in clause 6.  Subclause (2) specifies the timeframe by which the Industry Standard is to be made. Subclauses (3) and (4) specify that the Industry Standard must commence to operate no later than three months after it is made, and enable the Standard to commence at different times for different geographical locations or services.

Clause 6 sets out the matters to be covered by the Industry Standard.

Consultation

Optus, Telstra, Vodafone, the Australian Mobile Telecommunications Association (AMTA) (representing the mobile telecommunications industry) and Communications Alliance (representing the broader communications industry, including service providers, vendors, consultants and suppliers as well as business and consumer groups) were consulted.

These stakeholders and the Australian Communications Consumer Action Network (ACCAN) (representing consumers) will be consulted in the development of the industry standard.