



Telecommunications Amendment Regulation 2012 (No. 2)¹

Select Legislative Instrument 2012 No. 286

I, QUENTIN BRYCE, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulation under the *Telecommunications Act 1997*.

Dated 6 December 2012

QUENTIN BRYCE
Governor-General

By Her Excellency's Command

STEPHEN CONROY
Minister for Broadband, Communications and the Digital
Economy

1 Name of regulation

This regulation is the *Telecommunications Amendment Regulation 2012 (No. 2)*.

2 Commencement

This regulation commences on the day after it is registered.

3 Amendment of *Telecommunications Regulations 2001*

Schedule 1 amends the *Telecommunications Regulations 2001*.

Schedule 1 Amendments

(section 3)

[1] Regulations 1.3 to 1.6

omit

[2] Regulation 1.7, definition of *criminal law-enforcement agency*

omit

[3] Part 3, heading

substitute

Part 3 Service provider determinations

[4] Regulation 3.1

substitute

3.1 Purpose of Part

This Part specifies the matters that a service provider determination, made under subsection 99 (1) of the Act, may relate to.

[5] Regulation 3.2

omit

[6] Division 3.2

substitute

Division 3.2 Prepaid mobile carriage services

3.2 Prepaid mobile carriage services

- (1) This regulation applies to the supply of prepaid mobile carriage services.
- (2) A carriage service is a *prepaid mobile carriage service* if:
 - (a) the payment (if any) for using the service is made before the service is used; and
 - (b) no service provider or other person gives the customer an account for the service after the customer has used it; and
 - (c) the service is not a fixed-line carriage service.

- (3) The ACMA may make a service provider determination that applies to a carriage service provider in relation to the following matters:
- (a) verifying the identity of a customer who the carriage service provider supplies with the carriage service, including by doing any of the following:
 - (i) obtaining from the customer the minimum amount of information that is reasonably necessary to identify the customer;
 - (ii) using the national Document Verification Service, or a similar service, to check whether a document produced by the customer as evidence of identity is authentic, accurate and up-to-date;
 - (iii) finding out what other carriage services (if any) the customer has;
 - (b) obtaining from the customer information about what the customer proposes to use the carriage service for (such as residential, business, government or charitable use);
 - (c) recording and keeping:
 - (i) information that is obtained under paragraph (a), including the type of document produced as evidence of identity, but not including the identifying number of a government document; and
 - (ii) information that is obtained under paragraph (b); and
 - (iii) information that the carriage service provider possesses about the supply of the carriage service to the customer (such as any public number issued in connection with the carriage service and the name of the carriage service provider);
 - (d) destroying information that is recorded under paragraph (c) if the destruction is reasonable, including destruction when the information is no longer required by the carriage service provider;
 - (e) preventing the use of a carriage service if:
 - (i) a customer fails to verify his or her identity, including by giving false or misleading information;or

- (ii) an authorised law enforcement officer gives the carriage service provider a written request to prevent a person using a carriage service that states that action is necessary for a purpose mentioned in subsection 313 (3) or (4) of the Act;
- (f) advising customers of the effect of the determination.

Examples for subregulation (3)

A determination may be made about any of the following:

- (a) the ways in which a customer's identity may be verified, such as using the national Document Verification Service or a similar service;
- (b) the procedures to be followed when verifying a customer's identity;
- (c) the forms of identification that are acceptable;
- (d) when a customer's identity is to be verified;
- (e) the information that is to be recorded, such as the customer's date of birth;
- (f) how and when the information is to be recorded;
- (g) how long the recorded information is to be kept for.

- (4) In this regulation:

authorised law enforcement officer means an authorised officer of a criminal law-enforcement agency within the meaning of the *Telecommunications (Interception and Access) Act 1979*.

fixed-line carriage service means:

- (a) a carriage service that is supplied using a line to premises occupied or used by an end-user; or
- (b) a service that facilitates the supply of a carriage service covered by paragraph (a).

identifying number of a government document:

- (a) means the unique identifying number of a document that is issued by the Commonwealth or a State or Territory (such as a driver licence, Medicare card or passport); but
- (b) does not include:
 - (i) a receipt number or transaction number (such as a transaction number issued by the national Document Verification Service); or

- (ii) an Australian Business Number, Australian Company Number or Australian Registered Body Number.

[7] After Division 3.4

insert

Division 3.5 Telecommunications industry

3.14 Information relating to telecommunications industry

The ACMA may make a determination that specifies:

- (a) information in relation to the telecommunications industry that a carriage service provider must publish or distribute; and
- (b) the way in which the carriage service provider must distribute or publish that information.

[8] Regulation 5.1

omit

Note

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See www.comlaw.gov.au.