

EXPLANATORY STATEMENT

Telecommunications Act 1997

Acts Interpretation Act 1901

Australian Communications and Media Authority (International Mobile Roaming Industry Standard) Direction (No. 1) 2012 (Amendment No. 1 of 2013)

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

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 under subsection 125AA(1) that:

- applies to 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.

Subsection 33(3) of *Acts Interpretation Act 1901* (the AIA) provides that a power to make an instrument includes the power to repeal, rescind, revoke, amend, or vary any such instrument.

Purpose

The purpose of this Instrument is to amend the *Australian Communications and Media Authority (International Mobile Roaming Industry Standard) Direction (No. 1) 2012* (the Principal Instrument) to provide additional time for the ACMA to make an industry standard in accordance with the Principal Instrument. Such standard would require telecommunication providers of international mobile roaming services to implement certain specified consumer awareness measures.

This extension of time would allow the ACMA to undertake further consultation on the proposed industry standard with relevant industry stakeholders, as well as further research on the costs and benefits of the measures to be implemented, both to consumers and to telecommunications providers of international mobile roaming services.

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.

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 125AA(1).

Subsection 125AA(4) of the Act provides that the Minister may, in writing, direct the ACMA to determine an industry standard under subsection 125AA(1) that:

- applies to 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.

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).

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 section 113 of the Act.

The Minister gave a direction to the ACMA under subsection 125AA(4) on 23 August 2013 (the Principal Instrument), directing the ACMA to make, no later than nine months after the commencement of the Principal Instrument, an industry standard that requires telecommunications providers of international mobile roaming services to implement certain specified consumer awareness measures.

Specifically, the industry standard must set minimum requirements for telecommunication providers of international mobile roaming services to provide consumers with easily understood information about the services and the ability to ‘stop’ those services, once they are overseas. The standard may also deal with any other matter related to international mobile roaming services that the ACMA regards as appropriate. These may include measures to allow consumers to monitor and manage the cost and their use of international mobile roaming services, once they are overseas.

The Principal Instrument commenced on 27 August 2013. The ACMA has since undertaken public consultations on a draft industry standard.

Notes on clauses

Clause 1 provides for the name of the Instrument.

Clause 2 provides that the Instrument will commence on the day after it is registered on the Federal Register of Legislative Instruments.

Clause 3 is a definition clause.

Clause 4 amends subclause 5(2) of the Principal Determination by omitting and substituting a certain word.

Subclause 5(2) of the Principal Instrument requires the ACMA to make the industry standard referred to in subclause 5(1) of the Principal Instrument no later than nine months after the commencement of the Principal Instrument.

The effect of the amendment in clause 4 is that the ACMA will be required to make the industry standard no later than ten months after the commencement of the Principal Instrument. This represents a one month extension of time, allowing the ACMA to undertake further consultation and research prior to making an industry standard in accordance with the Principal Instrument.

Consultation

No consultation was undertaken as the amendment in this Instrument is of a minor, machinery nature.

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 before the Principal Instrument was made. The ACMA has been consulting with these and other stakeholders, including the Australian Communications Consumer Action Network (ACCAN) (representing consumers), in the development of the industry standard.