

10 April 2013

Mr Alan Chalmers
Manager, Consumer Interests Section
Australian Communications and Media Authority
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Melbourne Vic 8010



**Telecommunications
Industry
Ombudsman**

Simon Cohen
Ombudsman

Dear Mr Chalmers

Second Public Consultation Draft International Mobile Roaming Standard

Thank you for giving the Telecommunications Industry Ombudsman (TIO) the opportunity to comment on the second public consultation draft International Mobile Roaming (IMR) Standard (the current draft IMR Standard).

We outline below our brief comments – at an officer level – on the current draft IMR Standard for your consideration.

Significant improvements in the current draft IMR Standard

We are pleased to note that a number of the TIO's comments in our [February 2013 submission](#) and our subsequent officer level feedback to the ACMA in March 2013 have been incorporated into the current draft IMR Standard. There are a number of significant improvements in the current draft IMR Standard compared to previous drafts including:

- the obligation for service providers to pass on the IMR information to the next provider down the supply chain if the IMR information relates to that provider's customer
- the requirement for Mobile Virtual Network Operators (MVNOs) to give the relevant notifications and alerts to their customers about IMR services when they travel overseas (with a delayed implementation after 23 May 2016)
- the transitional obligations for MVNOs before 23 May 2016 to give specified information to their customers before agreeing to provide an IMR service
- the inclusion of 'automatic pre-pay services' in the scope of the IMR Standard
- the expansion of 'maximum charge information' to cover calls and SMS messages received within the overseas country, and
- improved clarity around spend management tools and usage notification obligations for IMR services.

In our view, the current draft IMR Standard – subject to our comments below – sets a fair balance in the protections afforded to consumers who use IMR services and the obligations imposed on service providers who offer these IMR services.

"... providing independent, just, informal and speedy resolution of complaints"

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Informed consent

The TIO acknowledges that the current draft IMR Standard seeks to address the measures prescribed under sub-clauses 6(1) and 6(2) of the *ACMA (International Mobile Roaming Industry Standard) Direction (No.1) 2012*. However, we note that sub-clause 6(3) of the Direction also recommends that the ACMA considers other matters that are ancillary or incidental to the main requirements in the IMR Standard.

In our view, the current draft IMR Standard has not fully addressed a number of gaps remaining in the Telecommunications Consumer Protections (TCP) Code 2012, particularly in relation to the issue of obtaining specific and informed consent from consumers before the activation of IMR services. A specific requirement to obtain informed consent also increases the potential for service providers to give consumers accurate and timely on-arrival IMR information.

Based on an assessment of TIO complaints data, poor quality pre-departure information continues to be a leading contributor to IMR complaints. In the TIO's experience, while consumers value the convenience of accessing their mobile services overseas, they are generally not sufficiently informed of the potentially high costs in doing so.

We note that paragraphs 6(1)(a) and sub-clause 6(2) of the current draft IMR Standard require MVNOs to supply specific pre-departure information immediately before agreeing to provide an IMR service to a customer. The TIO's complaint statistics in the past six months indicate that approximately 19 out of every 20 IMR related new complaint issues recorded by the TIO were received from customers of mobile network operators. As only a small number of IMR related new complaint issues involve customers of MVNOs, we are of the view that the requirements in paragraphs 6(1)(a) and sub-clause 6(2) of the current draft IMR Standard (with appropriate modifications) would be more effective if implemented for both mobile network operators and MVNOs.

In addition, we note that the obligations in sub-clause 6(2) have been included as a transition arrangement before the implementation of sub-clause 6(3) on 23 May 2016 for MVNOs. However, we take the view that maintaining sub-clause 6(2) beyond 23 May 2016 would provide a strong platform for ensuring that consumers give their informed consent at the time they activate an IMR service.

On a separate but related issue, we note that the one-year delayed implementation of the clauses relating to spend management tools (sub-clauses 8(2), (3), (4), (5), (6), (7), and (8)) for mobile network operators may need to be supported by extending the application of paragraphs 6(1)(a) and sub-clause 6(2) of the current draft IMR Standard to mobile network operators. This again relates to ensuring that consumers give their informed consent when activating IMR services.

Timeframes for compliance

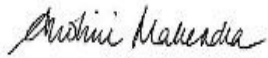
We note that a few requirements in the current draft IMR Standard have no set timeframes for compliance – using terms such as ‘as soon as practicable’ (paragraph 5(2)(c)) or ‘as soon as is reasonably practicable’ (paragraphs 8(3)(a) and (b)).

In our view, the lack of specific timeframes for compliance especially in relation to the requirements around spend notifications in paragraphs 8(3)(a) and (b), could result in delayed notifications and the risk of excessive IMR charges being incurred by the consumer.

Conclusion

We trust that our comments above are of assistance to the ACMA in finalising the IMR Standard. If you require any further information, please contact me on 03 8600 8700.

Yours sincerely

A handwritten signature in black ink, appearing to read "Shobini Mahendra". The signature is written in a cursive, flowing style.

Shobini Mahendra
Manager – Policy & Research