



Response to proposed changes to international mobile roaming regulations

Submission by the Australian Communications Consumer Action
Network (ACCAN) to the Australian Communications and Media
Authority (ACMA)

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About ACCAN

The Australian Communications Consumer Action Network (ACCAN) is the peak body that represents all consumers on communications issues including telecommunications, broadband and emerging new services. ACCAN provides a strong unified voice to industry and government as consumers work towards communications services that are trusted, inclusive and available for all.

Consumers need ACCAN to promote better consumer protection outcomes ensuring speedy responses to complaints and issues. ACCAN aims to empower consumers so that they are well informed and can make good choices about products and services. As a peak body, ACCAN will represent the views of its broad and diverse membership base to policy makers, government and industry to get better outcomes for all communications consumers.

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1. Introduction

ACCAN thanks the ACMA for the opportunity to provide feedback on proposed changes to international mobile roaming (IMR) regulations. We have advocated for better consumer protections and empowered consumer decision-making in this area on a number of occasions. Despite the introduction of the IMR Industry Standard in 2013 and its subsequent reviews, IMR continues to cause confusion and financial harm to communications consumers. We are pleased that the ACMA is reviewing opportunities to improve IMR arrangements.

A recent survey commissioned by Vodafone found that 5 million Australians have been charged \$1.4 billion worth of IMR fees, with an average of \$290 incurred per person.¹ It also found that 63% of smartphone users were anxious at the thought of returning home to a large bill after a holiday.² Current IMR arrangements assist consumers to understand charges associated with IMR services for SMS-enabled devices. However, it is still extremely difficult for consumers to accurately track charges incurred by their service usage. There are weak protections for customers who cannot keep track or are not aware of their usage. This costs, and will continue to cost, consumers dearly if a variety of reforms are not introduced.

All service providers must do more to provide accurate and timely information to consumers about their IMR service usage. This being said, there are many situations in which customer notifications fail to offer appropriate consumer protections.

Case study: Andy

Andy went on a short holiday to Fiji in July 2019. During his flight he switched his smartphone to 'flight mode', and this automatically turned off access to mobile data. After his flight landed on the runway in Fiji, he turned flight mode off. He didn't realise that this action automatically turned mobile data back on. Straight away, Andy received an automated SMS from his provider with the standard initial IMR warning message. A minute later, he received another SMS saying that he had used approximately \$100 worth of data. He immediately put his phone back on flight mode, and kept it on flight mode for the remainder of his holiday.

Andy hoped there had been a mistake, so he didn't contact his provider about the SMS notifications straight away. When he received his next bill, he was shocked to find approximately \$200 worth of IMR charges. He immediately called his provider to make a complaint. The provider waived the charges as it was Andy's 'first infringement'. It told him he had used 62 MB in the minute or so that his mobile data was turned on. This was likely due to background activity on his smartphone, like app updates and location services, which commenced when he switched off flight mode.

¹ Australian Financial Review 2019, [Telstra, Optus accused of charging too much for roaming](#)

² ITWire 2019, [Australians hit by \\$1.4 billion in international roaming costs: report](#)

By simply turning his phone off flight mode, Andy was liable for \$200 worth of charges. Andy had no way of knowing these charges would be incurred or reasonably preventing these charges. Customers like Andy are not suitably protected by existing IMR arrangements, or by the draft Determination. We propose additional safeguards to be considered alongside the targeted feedback we have provided in the following section.

1.1. Capping the maximum charge incurred per month

Even with the arrangements proposed in the draft Determination, it is extremely difficult for consumers to manage charges incurred by IMR usage. Most consumers are not informed about which apps on their device are accessing mobile data at any given time, or how much data they are consuming. This information can be very difficult to locate on many smartphones and tablets. The \$100 increment notification arrangements outlined in 13(3)(a) and 13(3)(c) are set far too high to offer any substantial protection for consumers against unwittingly accumulating a mass of IMR charges.

We propose a hard cap on the dollar figure a customer can incur per month from IMR service charges. After the cap is reached, access to IMR services should be blocked. Those on IMR-inclusive plans or IMR value plans should be subject to the same spend cap once they have exhausted their included value. We recommend a monthly cap of \$50 to prevent accidental fee blow-outs and ‘bill-shock’. A customer should be able to initiate contact with their provider and easily request that the cap is increased or decreased, or purchase additional access to IMR services.

Intra-European Union (EU) roaming arrangements illustrate an ideal approach to mobile roaming. In 2017, the EU implemented its ‘Roam like at home’ initiative, where IMR service charges were abolished for EU residents.³ Prior to this, a monthly €50 cap on fees applied to all customers accessing IMR services, along with regulated retail and wholesale price caps per SMS, MB and minute of talk.⁴

1.2. Inverting IMR service defaults

Another option to prevent ‘bill-shock’ and reduce financial harm to customers travelling overseas is to invert the default access to IMR services. Currently customers are automatically switched to IMR services unless the customer has initiated alternative arrangements, for example by purchasing a value pack or declining access. As outlined by the ACMA in the draft Determination and accompanying discussion paper, a customer must contact their provider to cease the supply of IMR services. This request can take up to 24 hours to be enacted and may incur a small fee to the customer.

Alongside existing protections, default access could be inverted so that customers manually request access to the supply of IMR services. This could occur when a customer seeks to purchase an IMR value pack. Under this arrangement, customers could set monthly spend limits where access is cut off once the limit is met.

³ European Commission 2017, [Roam Like at Home](#)

⁴ European Commission 2010, [Media release: New measures to counter data roaming bill shocks from 1 July; lower roaming call price caps](#)

2. Responses to questions

2.1. Does the draft IMR Determination appropriately define the range of devices that are to receive alerts and notifications about IMR?

We strongly support that the Determination replaces reference to SMS-enabled devices with IMR-enabled devices in IMR regulations. Any device with the capacity to access IMR services and incur service charges must be covered by IMR rules.

2.2. Does the draft IMR Determination effectively allow a customer to select a preferred method of communication?

We welcome the expansion of methods in which consumers are able to receive IMR-related notifications from their provider. The communications methods suggested by the ACMA provide a good level of flexibility.

However, we are concerned about circumstances outlined in section 7(6) of the draft Determination. If a customer uses IMR services to receive IMR-related notifications via mobile broadband (for example, via email or an app push notification), they risk incurring significant charges. Andy's case study illustrates how accessing IMR services for just a few minutes can result in several hundred dollars' worth of charges. It can be extremely difficult for consumers to know and control their device's internet use, especially given that post-paid customers are only notified of IMR charges incurred in \$100 increments. Thus, we recommend the ACMA investigate ways in which consumers may access non-SMS IMR-related notifications without being unfairly charged for accessing IMR services.

2.3. Does the draft IMR Determination provide appropriate flexibility around message content while ensuring key information is conveyed to the customer?

ACCAN is concerned about the removal of standardised notification content from IMR rules. We do not see suitable evidence to support the introduction of flexible and tailored notifications in lieu of standard messaging. Any IMR information that is tailored to a customer's bespoke IMR arrangements should be offered in addition to existing standard notification content. ACCAN has not received any complaints from consumers regarding IMR-related notifications.

We support retaining standard notification content because of what this content rules out, as well as what it rules in. Our primary concern is that some MVOs and MVNOs may seize a more discretionary approach as an opportunity to incorporate marketing material into IMR-related messaging. Additionally, the proposed rule changes give providers the flexibility to communicate IMR information in an unclear or potentially misleading way. Given high levels of consumer confusion and stress about IMR services, the risk of these outcomes is too great to substantiate softening messaging requirements.

However, we support that ‘maximum charge information’, which is not subject to standardised message content, can be tailored to the customer’s IMR arrangement (for example, pay-as-you-go). This will provide clarity to the customer about the IMR charges that will apply and when. Providers must not use message-tailoring as an opportunity to promote IMR products.

To clarify, any customer who has activated their mobile device overseas must receive the following notifications within 10 minutes of the customer activating that service:

- The existing standard initial warning, i.e. *“Warning – you have activated your mobile device overseas. Significantly higher charges may apply. There may be delays in receiving usage data and alerts”*;
- The maximum charge information tailored to the nature of the service the customer is receiving (for example, pay-as-you-go IMR services)
- The method by which the customer may decline the supply of IMR services, as outlined in the draft Determination (for example, section 8(1)(c).

2.4. Under section 4 (definition of ‘maximum charge information’) of the draft IMR Determination, the ‘maximum charge information’ that must be provided may differ depending on whether a customer is accessing IMR services via an included value pack, an IMR service inclusive plan, or in any other way. Are there any other types of IMR products or arrangements, or charging information that should be specified in the IMR Determination?

ACCAN is not aware of any other types of plans or IMR arrangements that should be specified in the IMR Determination. We are satisfied that information about IMR charging arrangements are, on the whole, communicated clearly to consumers due to the strict requirements embedded in the current Industry Standard.

2.5. Does the draft IMR Determination appropriately deal with the way charging information relating to multiple countries is sent?

ACCAN does not support the proposed changes around notifying customers of charging information across multiple countries. Customers are currently sent warning alerts and charging information every time they activate an IMR service in an overseas country, provided they have not received the same notification for the same country within 14 days. If a customer does not receive these notifications as soon as they travel to a subsequent country where the same information applies, they may think that charges do not apply. This creates a significant risk of consumer detriment given how quickly IMR charges can accrue, and the fact that post-paid customers are notified of the estimated accrued charges only after they are liable for \$100 in expenditure, at least. We propose that there is no change to current notification arrangements relating to IMR access across multiple countries.

2.6. Does the draft IMR Determination appropriately deal with notifying customers of charges from the time they exceed any included value in their mobile plan?

We support that maximum charge information should be sent with the 85% usage notification alert. Customers must be notified prior to incurring any kind of automatic change, and should have the ability to prevent that charge from being incurred. The inclusion of this information with the 85% usage notification creates a buffer for any time delay in receiving 100% usage alerts. This means that consumers will be able to adjust their IMR service usage or turn off access before additional IMR charges have been incurred.

However, ACCAN remains largely dissatisfied with timeframes associated with current usage estimates. Time delays increase the chance the usage estimate is inaccurate, and compromises its efficacy. The 48-hour time window that applies to the retrieval of usage estimates has not changed since the introduction of the Standard, and is now out of step with providers' technical capabilities. We understand that minor delays where information must pass between providers internationally may be unavoidable. However, the ACMA should investigate how quickly providers are able to retrieve this information, and shorten the time window appropriately.

2.7. Does the draft IMR Determination appropriately define a small business consumer?

ACCAN supports extending the definition of a consumer to include small businesses with a supplier spend threshold up to \$40,000 per year, rather than \$20,000. This definition is consistent with the Telecommunications Consumer Protections Code 2019.⁵

We have received feedback from small business owners about how essential IMR services can be to maintain smooth operations. Many small business owners need to remain contactable via their regular business mobile number when overseas. Small business owners often purchase bolt-on IMR value packs which allow them to keep their mobile number while controlling their spending. Broadening the definition of a small business consumer means that more people will be protected by the safeguards in the draft Determination.

2.8. Is it appropriate that the draft IMR Determination replaces 'nominal fee' with a specific amount equal to \$1.00?

We strongly support removing the allowance of a 'nominal fee' for declining supply of IMR services in favour of a \$1.00 cap. In our submission to the 2018 review of the IMR Standard 2013, ACCAN advocated that the term 'nominal fee' must be clearly defined.⁶ We were concerned that un-defined terms about fees allow providers to interpret and apply them as they wish, resulting in excessive and unfair costs to consumers. A hard fee cap eliminates this risk, though ideally no fee would apply to any customer requests to cease IMR services.

⁵ Communications Alliance 2019, [Telecommunications Consumer Protections Code 2019](#), p. 9

⁶ ACCAN 2018, [IMR Standard Review](#), p. 12

Additionally, our comments to the previous review recommended that CSPs should cease the supply of IMR services no less than two hours after the request is made by the customer, rather than 24 hours. We re-affirm this position given the ease at which customers can access IMR services unintentionally, and the speed at which customers incur IMR charges as exemplified in our case study.

2.9. Do you consider that transitional arrangements (to allow time for providers to comply with the IMR Determination) are necessary, and if so, should they be longer or shorter than proposed? If you do consider that particular transitional arrangements are necessary, please provide evidence or information to support your view.

We believe the proposed transitional arrangements are reasonable. The two-month transitional period gives providers adequate time to update their notification materials and internal processes.