



Calling Number Display Guideline (DR G522:2015)

Submission by the Australian Communications Consumer Action
Network to the Communications Alliance

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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 availability, accessibility and affordability of communications services for all Australians.

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 Communications Alliance for the opportunity to make public comment on its revised Calling Number Display Guideline (DR G522:2015).

The provision of Calling Number Display (CND) blocking and enabling is an important service, and is often a factor taken into account by consumers, particularly those who have privacy concerns, when selecting a service provider. ACCAN believes that the downgrade of the Code to a Guideline is detrimental to consumers because, as a Guideline, the Australian Communications and Media Authority (ACMA) can no longer enforce it. Furthermore, the status of a Code ensures that all service providers operate on an equal footing as they are subject to consistent enforcement directions by the ACMA.

Since CND is generally provided on an opt-out basis¹, it is important for service providers to inform consumers and maintain high public awareness of the feature, its privacy implications and how it can be blocked. The privacy affects of CND can be particularly harmful to certain groups, such as victims of domestic violence, who may not want their numbers disclosed to people they call. As such, information requirements that are relevant and helpful are needed. Ensuring that certain information requirements remain in a revised Code can also help limit consumer confusion and dissatisfaction. We remind industry participants that allowing CND services to be introduced in the 1990s on an opt-out basis represented a compromise - the preferred privacy position was for 'opt-in'. The agreement on the 'opt-out' compromise was conditional on an enforceable Code with strong consumer privacy protections, including detailed customer information requirements.

ACCAN is also concerned that the proposed changes – including the downgrading of the Code to a Guideline and weakening of the requirements – are not supported by any evidence that they are currently a burden on service providers. The main service providers have well established customer information and, if anything, the proposed changes would incur additional costs as the providers will now have to significantly amend their websites relating to CND. Telstra, for example, has a very informative webpage on CND², which clearly sets out the price of CND blocking, the availability of this add-on service, and the instances where one's CND will be disclosed regardless of blocking (e.g. when calling emergency services). This information is provided in a clear way, with headings, and is layered so that customers can find further information on specific items if they wish.

2. Recommendations

- Maintain the status of this document as a Code, rather than downgrading it to a Guideline.
- Retain the requirement for service providers to inform their customers (on a webpage relating to CND), that CND cannot be blocked when calling emergency services.
- Retain the requirement for service providers to inform customers that their network cannot support the option of blocking or CND enabling.

¹ ACCAN notes that Internode in fact provides the CND service on an opt-in basis:
http://www.internode.on.net/support/faq/phone_and_voip/nodephone/feature_codes/#cli_presentation

² <http://www.telstra.com.au/home-phone/features-services#call-number>

- Retain the requirement to inform consumers that they are free from contractual obligations if a technological change means that CND blocking or enabling is no longer supported on the provider's network.
- Include references to relevant APP Guidelines to aid compliance with the Australian Privacy Principles.
- Retain clause 4.1.1 which relates to information requirements in order to ensure that the document's structure is logical and the requirements can be easily accessed and read by service providers and consumers.
- Review the Code to ensure that the clauses referred to throughout are accurate.
- Clarify how the Code applies to VoIP and NBN voice services.

3. Information requirements

1.1 Calls to emergency services numbers

The draft Guideline removes the obligation of service providers to inform their customers that CND blocking will not work for all calls to emergency services numbers. The justification for this removal is that the requirement is captured in the Emergency Call Services Requirements (C536 4.5.1 (f)). However, ACCAN believes that removing the obligation from the CND Code/Guideline might result in service providers providing the information on emergency call services on a webpage that relates to emergency services rather than on a webpage specifically about CND. It is important that the information is provided on a page relating to the CND as well as any other relevant pages, as it could be a critical detail that informs a customer's decision on activating CND blocking.

Recommendation 1: Retain the requirement for service providers to inform their customers (on a webpage relating to CND), that CND cannot be blocked when calling emergency services.

1.2 Networks supporting the option of blocking or enabling

The draft Guideline removes the obligation for service providers to inform customers that their network cannot support the option of blocking or enabling. This is problematic because, if CND blocking or enabling is an important feature for consumers, it would be difficult to research whether the feature is available on different networks if the information is unavailable on a website or a consumer does not know where to look for it.

Furthermore, as consumers are changing the way they use voice services, and more and more consumers migrate to the NBN over the next few years and the use of VoIP services increases³, it is important for consumers to be aware of whether these networks, and subsequent technical changes to the delivery of their phone service, support CND blocking and enabling.

Recommendation 2: Retain the requirement for service providers to inform customers that their network cannot support the option of blocking or CND enabling.

³ The ACMA has reported that the use of VoIP services increased by over 6 per cent between June 2013 and June 2014. http://www.acma.gov.au/~media/Research%20and%20Reporting/Publication/Comms%20Report%202013%2014/PDF/Communications%20report%20201314_LOW-RES%20FOR%20WEB%20pdf.pdf (p. 7)

1.3 Contractual obligations

The draft Guideline removes the obligation for service providers to inform any customers that they can be free of their contractual obligations if they want to change service providers as a result of technological change that means their original service provider can no longer support CND blocking or enabling. ACCAN is concerned that even if Australian Consumer Law (ACL) stipulates that customers have the right to be free of their contractual obligations if the features of the service they signed up to change, they will typically not be aware of this right.

ACCAN's 2014 submission on the Telecommunications Consumer Protection Code pointed out that the ACL creates a legal protection, not an information requirement. By removing the above obligation, consumers may not be aware of their rights and may continue to pay for a service which has changed its features and which, therefore, no longer suits their needs. As such, ACCAN recommends that the Code be amended to include the information requirement that service providers inform their customers that they can exit their plans, free of charge, if the provider's network can no longer support CND blocking or enabling.

Recommendation 3: Retain the requirement to inform consumers that they are free from contractual obligations if a technological change means that CND blocking or enabling is no longer supported on the provider's network.

4. Australian Privacy Principles (APPs)

The draft Guideline claims that it has been amended to comply with the new Australian Privacy Principles (APPs), however, it is unclear which clauses have been added or amended to increase compliance with the APPs. Clause 5.2 which relates to Carriage Service Provider (CSP) obligations in relation to receiving Calling Line Identification (CLI) would seem to be the obligation most related to the APPs because it sets out the instances in which the CLI is used and disclosed regardless of a request to block caller identification. Therefore, it relates to the transmission of personal information which is governed by the APPs. However, this clause remains largely unamended in the draft Guideline.

In order to increase compliance with the APPs, ACCAN recommends that the Code references the appropriate APP Guidelines in clauses which relate to complying with the APPs. For example, including a link to the APP Guidelines for [APP 7 – Direct Marketing](#) in clause 5.2.2 which prohibits CSPs from using CLI for purposes of data mining, behavioural monitoring, and marketing, will assist service providers to understand how to comply with the APPs. Furthermore, it will increase service providers' awareness of the APPs and their privacy compliance obligations, and provide greater credibility to the claim that the Code has been amended to comply with the new APPs.

Recommendation 4: Include references to relevant APP Guidelines to aid compliance with the Australian Privacy Principles.

5. Structure and inconsistencies in the draft Guideline

3.1 Structure of the draft Guideline

The information requirements that were covered by clause 4.1.1 in the Code have been weakened and moved to clause 1.3(c) in the draft Guideline. These requirements are for suppliers to provide information to their customers on:

- How they can change CND
- How they can arrange blocking through their service provider
- Of any charges that apply
- Of any timelines for implementing requests for a Permanent Line Block

Given that these are information requirements, it seems counter-intuitive to include this under clause 1.3 which sets out the objectives of the Guideline, rather than retaining them as obligations or requirements that service providers need to comply with. The proposed change would make the Guideline difficult to work with, both for the telecommunications industry and for consumers consulting the Guideline to understand their service provider's information requirements.

Recommendation 5: Retain clause 4.1.1 which relates to information requirements in order to ensure that the document's structure is logical and the requirements can be easily accessed and read by service providers and consumers.

3.2 Inconsistencies in the Guideline

Clause 4.1.2 states "Suppliers who provide a wholesale telephone service must provide appropriate and timely information about CLI and CND to CSPs who resell their products to enable both the Supplier and the reseller to meet their information obligations, as outlined in Clause 4.1.1." As already noted above, the information obligations are no longer outlined in clause 4.1.1 but have been incorporated into clause 1.3(c). We oppose this change, but in any case the reference in the current draft is incorrect.

Recommendation 6: Review the Code to ensure that the clauses referred to throughout the Guideline are accurate.

6. Application to VoIP service and the NBN

ACCAN is concerned that the review has failed to address perhaps the most important change in the environment, which is the continued growth of VoIP services, which do not necessarily readily accommodate the requirements of the Code. We submit that further work is needed to ensure that the Code adequately deals with VoIP and other services that are alternatives to traditional voice telephony. The Code also needs to explain how it applies in the context of voice services provided through the NBN.

Recommendation 7: Clarify how the Code applies to VoIP and NBN voice services.