

## Submission

22 June 2022

# ACCAN feedback on the proposal to amend the Telecommunications (Listed Infringement Notice Provisions) Declaration 2022

ACCAN thanks the Australian Communications and Media Authority (**ACMA**) for the opportunity to provide feedback on the proposal to amend the *Telecommunications (Listed Infringement Notice Provisions) Declaration 2022* (the **IN Declaration**).

In ACCAN's January 2022 submission<sup>1</sup> regarding the sunseting and remaking of the IN Declaration, we articulated our position that the IN Declaration and Infringement Notice scheme more generally constitutes a vital part of the ACMA's enforcement regime. We appreciate that the IN Declaration allows the ACMA to take appropriate enforcement action in response to carriage service provider (**CSP**) contraventions of regulatory obligations.

Notwithstanding ACCAN's position that all rules directly related to the supply of communications services to consumers should be directly enforceable by the ACMA,<sup>2</sup> we believe the current proposal to incorporate new provisions would strengthen the Infringement Notice scheme. We further believe the inclusion of new provisions would help raise consumers' confidence that their providers are better incentivised to follow telecommunications rules.

ACCAN supports the inclusion of provisions from the Telecommunications Service Provider (Customer Identity Authentication) Determination 2022 (the **Customer ID Determination**) in the IN Declaration. As previously discussed with the ACMA, ACCAN continues to have some concerns about how the Customer ID Determination will impact consumers who are unable to authenticate themselves for various reasons, and how it will impact the appointment and activities of financial counsellors and other consumer advocates as authorised representatives. Despite these concerns, we acknowledge that including provisions from this Determination in the IN Declaration will support the ACMA's response to CSP contraventions of the Customer ID Determination, which on the whole will be reassuring for consumers.

We also support the inclusion of the Telecommunications Service Provider (International Mobile Roaming) Determination 2019 (the **IMR Determination**) in the IN Declaration, as recommended in our January 2022 submission. Given consumers are once again travelling internationally after quite an extended period where this was not possible, it is important that the enforcement options available

<sup>1</sup> Available: <https://accan.org.au/accans-work/submissions/1954-linp-declaration>

<sup>2</sup> As articulated in our submission to the Consumer Safeguards Part C consultation, available: <https://accan.org.au/files/Submissions/2020/ACCAN%20Submission%20to%20Consumer%20Safeguards%20Review%20Part%20C%20V.1.1.pdf>

to the ACMA are expanded by including provisions relating to international mobile roaming charges in the IN Declaration.

Finally, while ACCAN understands that the timeframe within which Infringement Notices may be issued is not up for consultation at this time, we reiterate our previous recommendation that this timeframe (currently 12 months) be extended to 24 months after the day on which the contravention is alleged to have taken place. Our view remains that the 12-month window for the issuing of an Infringement Notice is too limited given the length of time it can take for consumer issues to emerge, be referred to a regulator and be investigated prior to enforcement action being taken.

ACCAN welcomes any further opportunities to provide input on the IN Declaration. Please do not hesitate to contact us should you require further information about anything raised in our submission.

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*The Australian Communications Consumer Action Network (ACCAN) is Australia's peak communication consumer organisation. The operation of ACCAN is made possible by funding provided by the Commonwealth of Australia under section 593 of the Telecommunications Act 1997. This funding is recovered from charges on telecommunications carriers.*

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