



**Proposals for reduction in
telecommunications reporting
requirements
ACMA Consultation Paper**

Response by the Australian Communications Consumer Action
Network to the Government review of communications regulation

19 May 2014

Supplementary submission: MPS and
Performance Reporting

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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Mobile Premium Services consumer information obligations

ACCAN does not support the removal of all of these requirements from the Determination on the premise that they may be included in a future industry code. However, we do support the repeal of Sections 12(4) and 12(5).

The Telecommunications Service Provider (Mobile Premium Services) Determination 2010 (No. 1) was introduced at a time when MPS complaints to the Telecommunications Industry Ombudsman had already begun to decline.¹ Technological change is largely credited as the cause of this decline.² Indeed, smartphone usage has increased from 49 per cent of adult Australians in May 2012 to 64 per cent in May 2013.³ This has opened the way for many services previously provided by MPS being delivered through mobile applications.

However, it is also important to acknowledge the impact of the regulatory response in halting the flow of complaints. As TIO data illustrates, the overall decrease in number of new complaints about MPS began 1 July 2009 at the same time as the predecessor of the current MPS Code was introduced.⁴

ACCAN maintains that in the present environment frequent reminders about barring options may be more than is required. However the requirement to provide customer information when complaints or enquiries are made remains useful. Subsection 12(6), by the ACMA's admission, has ongoing utility in informing customers of their right to bar premium services.⁵ To keep intact the obligation to provide a barring capability, but remove the requirement to inform consumers of this option, could create a perverse outcome whereby the solution to a problem may be hidden from the consumer.

Rather than continuing to decline, MPS complaints have actually stabilised over the last five quarters to a quarterly average of 430.⁶ Any change or removal of consumer protections, which continue to serve some utility, is likely to lead to an increase in complaints. As such, removing the obligation to inform a consumer of their right to bar services when complaints or enquiries are made appears imprudent.

A number of Content Service Providers appear to operate a business model built on consumer ignorance. This is evident in the nature of the complaints received by the TIO. The overwhelming majority of complaint issues were from consumers claiming they had not requested the service.⁷

¹ TIO, 2014, 'Telecommunications Industry Ombudsman submission – Review of the Mobile Premium Services (MPS) Code', April 2014, p.3

² ACMA, 2014, 'Proposals for reductions in telecommunications reporting requirements Consultation paper', April 2014, p.4

³ ACMA, 2013, 'Communications Report 2012-13', p.25

⁴ TIO, 2014, 'Telecommunications Industry Ombudsman submission – Review of the Mobile Premium Services (MPS) Code', April 2014, p.3

⁵ ACMA, 2014, 'Proposals for reductions in telecommunications reporting requirements Consultation paper', April 2014, p.4

⁶ TIO, 2014, 'Telecommunications Industry Ombudsman submission – Review of the Mobile Premium Services (MPS) Code', April 2014, p.3

⁷ TIO, 2014, 'Telecommunications Industry Ombudsman submission – Review of the Mobile Premium Services (MPS) Code', April 2014, p.5

This is not the hallmark of a product which should have lessened consumer information requirements. ACCAN believes the obligation to inform consumers of their right to bar these services remains an important safeguard as a preventative measure against consumers inadvertently accumulating large charges.

The second and third highest TIO complaint issues for MPS relate to inadequate/incorrect advice and assistance about an MPS problem.⁸ The information requirement in Section 11 is designed to remedy this very problem. The section precisely outlines what a consumer would reasonably be required to know in order to bar a service. In other forums industry has argued that precise information requirements unduly limit innovation and competition in how service providers communicate with their customers. We do not believe this is the case in this instance. The information requirements in Section 11 include:

- Describing what a premium SMS and MMS service is,
- How charges are incurred,
- How MPS may be barred,
- The barring process, and
- Complaint mechanisms

Further, mobile carriage providers are directed to give this information in a clear, concise, efficient and prominent way. Rather than onerous requirements, this section could be better described as a model approach to providing useful information on which consumers can act. ACCAN believes that removing this requirement for clear information will undoubtedly lead to spikes in these complaint categories.

Overall, we agree with the ACMA that it is vitally important that the barring requirements remain in place and ensure this mechanism continues to be effective. We also maintain that consumers must at a minimum be informed of this option when signing up for a service and when making an enquiry or complaint. In recognition of the drop in TIO complaint numbers in relation to MPS, we do not believe that it is necessary to have ongoing information requirement every 3 to 6 months or on a customer's bill. Rather than wholesale removal of sections 11 and 12, this nuanced amendment is in line with current industry proposals on MPS deregulation.⁹ As such we believe it better maintains the balance between burden on industry and effective consumer protection.

Telecommunications annual performance reporting under s105 TA

ACCAN supports proposals for a longer term review of industry reporting requirements. However, we note the valuable role of data published by the ACMA as a basis for informed policy development. Ongoing reporting requirements are also vital in ensuring transparency and accountability in the communications sector. As a consumer body we are particularly reliant on information gathered by the ACMA on telecommunications performance. While providers are able to collect and monitor this information first hand, competitors, government, regulators and consumer bodies are largely reliant on these reports for industry data and without them the level of informed policy discussion would suffer.

⁸ TIO, 2014, 'Telecommunications Industry Ombudsman submission – Review of the Mobile Premium Services (MPS) Code', April 2014, p.5

⁹ Optus, 2013, 'Deregulation: Initiatives in the Communications Sector', Letter to the Minister for Communications, 19 December, 2013, p.21; AMTA, 2013, 'Deregulation: Initiatives in the Communications Sector', Letter to the Minister for Communications, 19 December, 2013, p.8

ACCAN is particularly concerned about the proposed removal/reduction in scope of the following categories of information:

General:

- No. of mobile services in operation by network/pre-paid vs. post-paid
- VoIP services in operation
- Volume of SMS and MMS messages

Accessibility:

- Priority assistance connections (urban, rural, remote) and % met within time
- Priority assistance fault repairs (urban, rural, remote) and % met within time
- No. of teletype writer (TTY) payphones in op (urban, rural, remote)
- No. of applications for provision of TTY payphones (urban, rural, remote)
- No. of refusals for TTY payphones (urban, rural, remote)
- No. of requests for the supply of equipment to people with a disability
- No. of requests fulfilled
- No. of requests refused and reasons

Rural and remote

- Mobile network coverage as a proportion of total population
- No. of applications for provision of payphones
- No. of applications for payphones refused
- Payphones removed without public consultation
- Payphones for which public consultation conducted re removal
- Payphones removed after public consultation

ACCAN has been guided by this information, especially in its disability and rural and remote portfolios, as it forms a solid basis on which informed policy work can take place. For example, in recent discussion around proposed reforms to Priority Assistance (PA), ACMA research on PA connections has been informative in guiding debate around the scale of the importance of this service to Australian consumers.

Another example is the importance of mobile network coverage information. A legal battle was recently fought between Optus and Telstra over the accuracy of representations about coverage data. Without an obligation to produce this information there may be further confusion, with clear performance measures giving way to deliberately imprecise marketing terms. Again for a consumer or indeed competitors, government, regulators and consumer bodies any attempt to compare nationwide coverage will be at the discretion of the provider, or more particularly their marketing department.

In principle, we are open to the ACMA aligning the data it collects with data already collected by the industry in order to streamline processes. However where removal of reporting requirements is taking place ACCAN would like to see better modelling on the expected cost savings. While we expect it will lead to some savings, it may be out of all proportion with the impact of not having the data for informed policy making. Again using the example of PA, presumably some of this data is collected by Telstra as part of its internal processes for provisioning and planning. The flow-on cost

of collating this data for use by an external body is likely to be minimal or more importantly the saving will be out of proportion with the cost to informed debate.

Another concern is that the discussion paper gives no indication of what the implications are of reducing the scope on some requirements. For example, there is a proposal to reduce the scope of reporting requirements around 'No. of priority assistance customers (provisional and validated)'. It is unclear if this is proposing to reduce requirements to simply express the total number priority assistance customers or some other reduction in scope. On this basis, it is difficult for ACCAN to give feedback on this consultation without significant clarification. This should be done before further action is taken.

ACCAN believes that we need to retain the knowledge collated under Section 105, while balancing any onerous requirements of record keeping on providers. We recommend an ACMA review of the reporting requirements with a clear justification for any need to remove or scale back data collection. The decision to remove a requirement should be based upon a finding that it is duplicated elsewhere or a clear demonstration that the cost is out of all proportion with the benefit of collection.