



Calls to freephone and local rate numbers: the way forward

Submission by the Australian Communications Consumer
Action Network to the Australian Communications and
Media Authority



November 2011



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 activate its broad and diverse membership base to campaign to get a better deal for all communications consumers.

Contact

Erin Turner
Policy Assistant

Suite 402, Level 4
55 Mountain Street
Ultimo NSW, 2007
Email: erin.turner@accan.org.au
Phone: (02) 9288 4000
Fax: (02) 9288 4019
TTY: (02) 9281 5322



Introduction

ACCAN is pleased to comment on the ACMA proposals in *Numbering: Calls to freephone and local rate numbers, the way forward*.

ACCAN is very supportive of these proposals. The proposed solution recognises the realities of the current communications market; where a mobile phone has become the ubiquitous and low-cost handset for voice calls; call costs for FLRNs are extremely confusing for consumers; and, that current arrangements do not reflect the original intent of telecommunications legislation, the *Numbering Plan* or the purpose of a 'free' and 'local rate' range of numbers.

The cost of calling free and local rate numbers (FLRNs) is a problem that ACCAN was alerted to by our members and it affects each of the consumer groups we represent. The proposals present an effective way to resolve the problems for mobile customers calling FLRNs and it is in the public interest that they are implemented within a reasonable timeframe.

The timeframe proposed by the ACMA balances the urgency of this change for vulnerable consumers with the commercial considerations of industry. ACCAN views these proposals as a productive beginning to a longer conversation about the structure and use of FLRNs. It is important that interconnect and access arrangements are examined so that organisations who use FLRNs are charged rates set in a fair, equitable and transparent manner. While we remain open to alternative suggestions and working with industry, ACCAN is not aware of any industry-based measure that would achieve the outcomes for FLRNs desired by the ACMA.

In light of this ACCAN recommends that:

- **The ACMA encourages the ACCC to investigate the need for a Mobile Originating Access Service to regulate the wholesale price of origination access charges for mobile calls to freephone and local rate numbers.**
- **The proposed ACMA changes to the *Numbering Plan* are implemented without alteration.**
- **The timeframe for change remains 12 months.**

1. The ACMA proposals are in the public interest

1.1 Consumers will benefit from the proposals

There is strong community support for the ACMA's proposals. At least 1000 submissions had been made in support of the ACMA proposals as at 5pm, 30th November 2011.¹ Personal comments made in some submissions demonstrate the variety of reasons that consumers want and need these proposals to be implemented. A sample of community responses submitted to the ACMA online are available in Appendix One. Consumer submissions reinforce ACCAN's earlier finding that all FLRNs need to be priced consistently.²

ACCAN has already demonstrated how high charges for mobile calls to FLRNs have a negative impact on all consumers but is the most detrimental for vulnerable consumers including low-income consumers; Aboriginal and Torres Strait Islander consumers; people from non-English speaking backgrounds and refugees; people with a disability; older people; people living in regional and remote areas; young people; women; people who identify as Lesbian, Gay, Bisexual, Transgender or Intersex; and people experiencing homelessness.³

The proposals will have the greatest impact on people who need to access socially important services. For example, Boystown uses a 1800 number for its Kids Helpline, the national young person's support and counselling helpline. In the last financial year, 69% of all calls to the Helpline came from mobile phones and an average counselling call took over 30 minutes.⁴ These changes will significantly reduce the cost to the caller from approximately \$30 for an average counselling call to no cost.

1.2 Addressing price transparency for FLRNS

ACMA research has demonstrated that there is significant confusion amongst consumers about the cost of calling FLRNs from mobile phones.⁵ ACMA research findings that nearly 50% of consumers did not know the cost of calling an FLRN support ACCAN's understanding of the difficulty consumers face when navigating the wider telecommunications market.

FLRN price confusion extends to telecommunications service provider staff as well as consumers. ACCAN has conducted a small telephone shopping experiment. We called Telstra, Optus and Vodafone sales lines and asked about the rates for calling 1800 numbers with a \$30 pre-paid mobile plan or recharge.

ACCAN received different answers from customer service representatives many of whom seemed confused about the inquiry. The shadow shopper was given a range of responses: that calls to 1800 numbers from a pre-paid mobile were free, that they were charged at

¹ Submissions were primarily made using <http://faircalls.good.do/action>

² ACCAN, July 2011, *Numbering: Consultation paper 4* p 30.

³ Ibid pp 10-29.

⁴ BoysTown, November 2011, *BoysTown's Response to ACMA's Consultation Paper: Numbering: Calls to freephone and local rate numbers.*

⁵ See ACMA, May 2011, *Numbering: Implications of research into consumer issues, Consultation paper 4*, p 57-59.



premium rates of \$2-\$15 per minute, that rates varied for each 1800 number called or that no flagfall applied to these calls. In some cases, while the answer provided was, to ACCAN's knowledge, correct, it took over 5 minutes for the customer service representative to locate the information. The information about rates was only clearly provided on the Vodafone website however Vodafone sales staff provided ACCAN with conflicting information about charges over the three calls, including that 1800 numbers were charged at high premium rates. Full details of these calls are available in Appendix Two.

There is little transparency or clarity about prices with current arrangements where FLRN call charges can sit outside of "cap" credit; are the same as standard call rates or have special arrangements; and, are rarely publicised in basic rate information. Current pricing structures are so confusing that sales representatives for major mobile service providers cannot clearly locate information.

Poor price transparency impacts on the competitiveness of the telecommunications industry because people are unable to make informed choices for their purchases or expenditure. ACCAN fully supports the ACMA policy objective of ensuring that numbers carry clear pricing signals.

2. Challenges in implementing the proposal

Any challenges in implementing the proposal that ACCAN is aware of are outweighed by the long-term interests of consumers who need to call FLRNs and the organisations who wish to offer incentives or make it easier for consumers to call.

There is also a potential long-term benefit to some service providers who will be able to provide retail and business customers with a range of numbers that work as described: free will mean free and local rate, local rate.

2.1 Time period for implementing the proposal

Industry have suggested that the timeframe for implementing the proposals may be unrealistic because of the time required to renegotiate contracts between service providers and between FLRN service providers and the owners of FLRNs.⁶

There are 291,000 FLRNs owned by approximately 100,000 different organisations.⁷ This is a very small figure when compared with other parts of the telecommunications industry. For example, Telstra had over 6.4 million post-paid mobile subscriptions in 2010-11.⁸

Contract renegotiation in the form of price changes at the consumer level has the potential to be implemented quickly and across hundreds of thousands of contracts. For example, in

⁶ See Communications Alliance comments, October 2011: http://www.arnnet.com.au/article/403859/commsalliance_1800_free_calls_mobiles_unrealistic_disruptive/#closeme

⁷ Communications Alliance/AMTA, November 2010, *Response to ACCAN/ACOSS/AFFCRA submission on the Cost of Accessing 1800 and 13/1300 Services from Mobile Phones* p6.

⁸ Telstra, July 2011, *Telstra Annual Report 2010-11* p11.



November 2011 Optus changed charging increments from 30 to 60 seconds and increased flagfall rates for eight different mobile plans.⁹

Some contracts between FLRN service providers and business retail customers also have the potential to also be altered relatively quickly. The Optus Network's Summary of the Standard Agreement for Supply of the Optus Inbound Voice Services clearly states that:

“CHANGING THE AGREEMENT: We may change the agreement by: complying with the Telecommunications Legislation and, in those circumstances set out in the agreement only, by giving you 21 days notice in writing of the change and allowing you to cancel the service within 42 days of giving notice without paying fees or charges, other than those set out in the agreement.”¹⁰

Our understanding is that this clause, which is likely to exist in most standard contracts, will allow FLRN service providers to alter rates for some FLRN customers in a matter of months.

ACCAN has no sense of the proportion of FLRN customers on standard contracts or of the clauses in non-standard contracts that allow providers to alter rates quickly. This factor will affect the time needed to implement changes as non-standard contracts will involve more extensive renegotiation. ACCAN cautions against overestimating the time and effort needed to renegotiate these contracts. With sufficient resourcing, contracts between FLRN service providers and clients could be renegotiated in a reasonable timeframe.

2.2 FLRN service provider charges

The changes proposed by the ACMA mean that mobile service providers will no longer collect revenue from the caller. Industry will likely need to restructure interconnection and access charging arrangements as a result of these proposals. This is not an insurmountable task as an access arrangement model already exists for calls from fixed-line to FLRNs, where only the receiving party pays.

It is possible that altered interconnection arrangements will lead to increased costs for organisations using FLRNs as mobile service providers may increase the wholesale cost of originating a call charged to FLRN service providers. FLRN service providers are likely to pass the cost of originating the call to the receiving party, the organisation who uses the FLRN. It is unclear what, if any, price increases organisations using FLRNs will face.

There is little information about current market structure and interconnection charges for the FLRN market (which are commercial in confidence). In all cases under current arrangements, when a mobile call is made to a FLRN, the caller and the organisation being called are charged. ACCAN has found that some organisations pay more to receive calls from mobile phones than landlines.¹¹

⁹ See Optus website, 'Mobile Phone Changes'

http://personal.optus.com.au/web/ocaportal.portal?_nfpb=true&_pageLabel=Template_wRHS&FP=/personal/mobile/mobilefeaturesandservices/mobilephonechanges&site=personal

¹⁰ Optus standard agreement is available in full at

<http://www.optus.com.au/aboutoptus/About+Optus/Legal+%26+Regulatory/Standard+Forms+of+Agreement/Business/Voice>

¹¹ ACCAN, July 2011, *Numbering: Consultation paper 4* p 26-29.

Prices that organisations are charged to receive calls are dependent on interconnection arrangements and access charges between telecommunications companies. These wholesale inputs are currently determined by commercial agreement. In 2004 the Australian Competition and Consumer Commission (ACCC) found there was no uniform method of charging and interconnection arrangements between carriers for mobile to FLRN calls.¹²

FLRNs are virtual numbers and have special routing and blocking capabilities. Currently organisations can route their FLRN to different locations according to time or location of the caller. They are also able to block all mobile calls. If organisations, most likely small businesses with limited ability to absorb additional costs, are unable to afford any price rises to receive mobile calls to their FLRN, they will be able to block all mobile calls and/or offer an ordinary geographic number for callers.

However, it is not ideal for consumers, industry or businesses if organisations that currently use FLRNs face uncertain or unfair price increases. Mobile service providers should be able to recover the cost of originating a call but even then, as the ACMA acknowledges in the discussion paper, providers are likely to incur revenue losses as a result of the reforms. ACCAN is concerned that mobile service providers could raise the origination access fees they charge FLRN carriers to extremely high levels to compensate for lost revenue, instead of basing charges on cost recovery models. This could have the effect of unfair price increases. The wholesale origination access price needs to be set at a level which is fair, transparent and reflects the cost of providing the service.

As we note above, the ACMA proposal will substantially alter the interconnection arrangements for mobile calls to FLRNs. All inter-carrier contracts will need to be renegotiated in an environment where:

- Each mobile service provider has a monopoly over the provision of origination access of calls made by its subscribers.¹³
- Leading from this, mobile service providers have a substantial degree of market power.¹⁴
- In order to provide a full service to its customers, FLRN service providers will need to negotiate origination access arrangements with all mobile network service operators.
- There is a risk that these conditions could lead to a refusal to supply origination access services, most likely via a 'constructive refusal' where a price for an essential

¹² ACCC, June 2004, *Mobile Services Review Mobile Originating Access Service Final Report*.

¹³ The ACCC has stated that it considers mobile providers to have a monopoly over origination access charges, "...from a market structure sense, each mobile network operator could be thought of as a monopolist with regard to the provision of origination access of calls made by its subscribers.", *Ibid* p 41.

¹⁴ Mobile network operators control access to a key network element that is necessary for completion of a mobile to FLRN call, call origination, providing them with substantial market power, The ACCC has identified the control of access to key network elements as a structural feature of market power in the telecommunications industry. See ACCC, August 1999, *Anti-competitive conduct in telecommunications markets*, p 43.



input (in this case, call origination) is so high that the service cannot be offered or offered profitably.¹⁵

Given these ACCC identified features of the wholesale aspects of the mobile to FLRN market; ACCAN sees a compelling argument for an investigation into whether the ACCC should redeclare a Mobile Originating Access Service (MOAS). If the ACMA proposals are implemented, the grounds for the ACCC allowing the previous MOAS declaration to expire cease to apply.¹⁶ A MOAS declaration would be able to take into consideration the costs in originating mobile calls which may differ from calls originating from fixed-line networks. It would also provide service providers with regulatory support for gaining access to call origination services and for arbitration on the terms and conditions of access.

A full inquiry would need to investigate appropriate wholesale access rates and terms and conditions of any MOAS determination. The Domestic Mobile Terminating Access Service (MTAS) provides a good guide of possible costs and conditions for a MOAS as the technology and processes used in originating and terminating a mobile call are largely the same.¹⁷

The time needed for the ACCC to consult, prepare, draft and finalise a MOAS should be taken into account when setting a timeline to implement the ACMA's proposals. It will be an easier transition to a free and low-cost to-caller system for FLRNs if regulators work together to coordinate timelines.

If the ACCC were to declare a MOAS then there would be a level of transparency, accountability and fairness in the prices paid by organisations using a FLRN. This would facilitate the ACMA's ultimate goals of FLRNs reflecting consumer usage patterns, the intent of original legislation and price transparency.

Therefore ACCAN recommends that:

- **The ACMA encourages the ACCC to investigate the need for a Mobile Originating Access Service to regulate the wholesale price of origination access charges for mobile calls to freephone and local rate numbers.**

3. Alternative measures to achieve the desired outcomes

ACCAN has consulted with various key members of industry including Communications Alliance, Phonewords, Telstra, Optus, Vodafone, Amaysim and the INMS. From our understanding, there are many views across industry reflecting the variety of business

¹⁵The ACCC defines a refusal to supply services not just as an outright refusal but also “a constructive refusal to supply inputs, whereby the price charged for those inputs is so high that a downstream producer is unable to trade profitably (except, for example, where the prices charged for those inputs are cost-based).” See *ibid* pp 45-46.

¹⁶ See ACCC, June 2004, *Mobile Services Review Mobile Originating Access Service Final Report* p54-55.

¹⁷ ACCC, June 2011, *Domestic Mobile Terminating Access Service (MTAS) Public Inquiry to make an Access Determination*.

models and interests.¹⁸ While we remain open to hearing suggestions, we have not yet seen an alternative industry-based measure that would achieve the outcomes outlined by the ACMA.

We have outlined possible alternatives below; explaining how each does not resolve the problems identified by the ACMA, namely, changing consumer usage patterns, the intent of original legislation and price transparency.

3.1 Email, SMS and call back services

Alternative ways of contacting organisations who use a FLRN can be useful for consumers but should not be considered a substitute for affordable access to FLRNs by mobile phone. The ACCC has stated that:

“...the extent to which fixed-line, SMS and e-mail services (as well as other services such as those provided over voice over Internet protocol (VOIP) technology) can act as a substitute for mobile telephone services is limited. This is because these alternatives do not replicate the mobility characteristic that is key to the convenience of using a mobile phone and/or do not provide for sufficient real time communications.”¹⁹

ACCAN considers this premise extends to call-back arrangements, where a FLRN provider calls back after receiving an SMS or a brief call from a consumer. Again, while this service can be useful, it does not provide the mobility, instant access or ease of use that a direct mobile to FLRN call provides. Call-back methods rely on the consumer and FLRN customer service operator realising the cost to the caller when a mobile phone is used. This solution also fails to address ACMA concerns around price transparency and the intent of original legislation.

3.2 An alternative number range

An alternative genuinely free-to-the-caller number range on, for example, a 1400 or 1700 range would be attractive to industry as it alleviates the need to renegotiate FLRN contracts.

This alternative does not however adequately address the issues necessitating the ACMA proposal. A new number range would only further add confusion around the pricing as, without addressing mobile charges for 1800, 1300 and 13 numbers there will exist a sometimes-free-to-caller range, a sometimes-low-cost-to-caller range and an always-free-to-caller range depending on the whether a caller is able to use a landline or a mobile.

This alternative also fails to recognise the significant investment small businesses and not-for-profits have made in their FLRNs. These numbers have an initial cost of \$250 - \$20,000 with additional monthly fees for management and call costs.²⁰ There is also significant investment in marketing and promoting these numbers. By offering an additional mobile

¹⁸ Industry body, Communications Alliance, has stressed that there are over 1000 Australian telecommunications service providers with different business models and capabilities <http://www.commsalliance.com.au/Documents/releases/2011-media-release-09>

¹⁹ ACCC, June 2004, *Mobile Services Review Mobile Originating Access Service Final Report*.

²⁰ See the ACMA smartnumbers auction site:

<http://www.smartnumbers.com.au/smartnumbers/action/content?method=viewCostAndFees>



freephone number range and refusing to address issues in the FLRN market, telecommunications service providers would be unfairly shifting costs and an administrative burden to small businesses and not-for-profits, many of whom have invested in FLRNs on the understanding that these numbers would be accessible to their callers.

3.3 Including FLRN call costs in mobile plan credit

Including current costs for FLRN calls as part of so-called “capped” plans exacerbates confusion about individual call costs. Some current plans already offer FLRNs within plan credit. For example, Vodafone customers on a \$19 per-month post-paid cap plan receive \$70 worth of “credit”.²¹ Within this \$70 worth of credit FLRN calls cost 98c per minute + 38c flagfall. The ACMA’s Reconnecting the Customer inquiry has recognised the difficulty included value plans create when consumers attempt to calculate the cost of individual calls:

“There are fundamental problems with this type of product. Understanding how this ‘value’ is derived is very difficult, even for consumers who research the matter.”²²

A solution that only required mobile service providers to include the cost of FLRN calls in plan credit would only create further confusion about the cost of these calls for post-paid customers and would fail to address the cost and pricing confusion concerns of pre-paid customers.

After examining the benefits of the proposal, the potential implementation challenges and the known alternative measures, ACCAN is of the opinion that the ACMA proposal is the only viable way of ensuring that the problem is solved.

Therefore, ACCAN recommends that:

- **The proposed ACMA changes to the *Numbering Plan* are implemented without alteration.**
- **The timeframe for change remains 12 months**

²¹For full plan details see: <http://shop.vodafone.com.au/all-plans?id=100006>

²² ACMA, September 2011, *Reconnecting the Customer Inquiry Final Report* p 82.

Appendices

Appendix one

In order to help consumers engage with the ACMA's proposal, ACCAN set up an online submission site at <http://faircalls.good.do/action>. Over 1000 submissions were made via this site. Hundreds of consumers added their own personal reasons for supporting the ACMA proposals when making a submission. This appendix includes some individual responses from online submissions. These demonstrate the many and varied reasons consumers want free and local rate numbers to be priced fairly from their mobile phones.

“As a homelessness service we offer a 1800 number to our clients for their access to assistance and the charges are often prohibitive and clients are required to have credit on their phone to make the call while we at the same time are picking up the cost of that call.”
– Debra, 16th November 2011.

“I've been bitten once by my mobile phone service. Once is too often! I now avoid calling those numbers even though they would ease my voluntary community service work to a great extent.” – Lin, 16th November 2011.

“One recent call I made to my medical benefits provider cost me \$26 as they kept me waiting so long and it took a long time to process the changes I wanted to make to my cover. This was after they assured me that there was no cost for the call on a mobile phone!” – Pat, 8th November 2011.

“I have had to call the RACQ for road reports and to call for roadside assistance. This cost me a fortune each time I call. I think if it's a fixed cost from a land line it should be the same fail cost from a mobile.” – Christopher, 8th November 2011.

“I frequently have to call Technical Support from companies like Telstra, CSC and banks as I work in the IT industry. I have to use a mobile telephone because it is more convenient than using a land-line, especially when at client sites. The cost of the calls can be higher than \$20 – especially when talking to Telstra!” – Lynn, 8th November 2011.

“I coordinate a hepatitis helpline for people in SA to access up to date and accurate information and support. We have a 1300 number but the cost of mobile calls often means that clients do not have the credit to stay on the line long enough to receive all the information they need. This can be very distressing for the clients and the dedicated workers of our service.” - Deborah, 16 November 2011.

“My organisation uses a 1800 number as a way of encouraging community members to call us to make bookings for energy retrofits which will save them money. Fair call rates from all phones will encourage more community members to participate in this and other programs we offer the community.” – Christine, 15th November 2011.

“As a counsellor I work through General Practice surgeries and find constantly that many of my lower income clients cannot afford to maintain two phone lines and when choosing to stay with their mobile, they are then stuck when needing to call any numbers which have a long waiting time involved e.g. Telstra, Centrelink, even the doctor's surgery.” – Elizabeth. 15th November 2011.



“I regularly contact government services, with long waiting periods, such as the tax office, for information relating to my sole trader business. I don't have easy access to a landline for these calls and it is far too costly to use a mobile phone and risk long waiting times. I also believe that this problem is even further exacerbated for those on prepaid mobile phone contracts where call rates are even higher – I have friends, who have tried to make important appointments and have completely run out of credit before getting through using 13 and 1800 numbers.” – Monica, 16th November 2011.

“Our professional fishing business is obliged to make calls to government agencies to conduct my seafood business from remote areas or from out at sea using a mobile phone. The cost of these calls would be easier to absorb if your proposed changes were implemented.” – Anne, 16th November 2011.

“With the current prevalence of menu systems on business phones, it can take a long time to get to the required department. This extended time, plus the inevitable time waiting in a queue when the department is finally selected, can vastly increase the cost of a call from a mobile phone. The alternative is to keep a landline phone to have access to free calls and 13/1300 calls, but this also costs a minimum of \$22.95 a month in line rental, even if no calls are made in the month. This is an additional cost not easily managed by pensioners such as me.” – Douglas, 12th November 2011.

Appendix two

ACCAN has conducted a small telephone shopping experiment. We called Telstra, Optus and Vodafone sales lines and asked about the rates for calling 1800 numbers with a \$30 pre-paid mobile plan or recharge. Notes from these calls are below.

Provider	Product	Cost as advertised online	Advice 23/11/11
Optus	Crew Cap Pre-paid, \$30	Unsure, not made clear on Optus website.	Initially informed that it is free to call 1800 numbers from mobiles. ACCAN staff member challenged this, sales representative checked with 'pre-paid team'. Was then informed that it costs 89 cents per minute to call 1800 numbers. No information provided about connection cost.
Telstra	Pre-paid Cap Encore, \$30	Unclear. Some Telstra materials suggest that all 1800 calls are 22 cents per minute from mobile phones. See: http://telstra.com.au/customer-terms/download/document/othercalltypes.pdf	Took over 6 and a half minutes to locate information. Informed that 1800 calls are charged at the standard call rate, 89 cents per sixty seconds plus 39 cents connection fee.
Vodafone	Pre-paid \$30 cap	90 Cents per minute, 40 cent connection fee, clearly available on Vodafone website.	Informed that 1800 calls cost the same amount as standard calls - 90 cents per minute plus 40 cent connection fee.



Provider	Product	Advice 25/11/11	Advice 28/11/2011
Optus	Crew Cap Pre-paid, \$30	Informed that 1800 calls are charged at standard rates: 89 cents per minute plus 39 cents connection fee. Was informed that this is the same for 13/1300 numbers	Five minutes to retrieve answer. 1800 numbers 89 cents per min + 39 cents flagfall. Was told that some 1800 numbers cannot be called from a mobile, only a landline. The operator had no knowledge of how many calls I'd be unable to make.
Telstra	Pre-paid Cap Encore, \$30	Informed that 1800 calls are charged at the standard call rate, 89 cents per sixty seconds plus 39 cents connection fee.	Was told charges for 1800 numbers varied - it depends on the number that you call. Operator could not find any information about specific call rates. When pushed, operator checked with supervisor. Confirmed that I'd be charged a different rate for each 1800 number but there was no specific information about charges.
Vodafone	Pre-paid \$30 cap	Informed that 1800 and 13 are special numbers and that per minute charges are very high - much more than standard call. Told that the service team had no information about specific charges but that 1800/1300 numbers were charged at premium rates between \$2 -15 per minute.	The operator was unsure of the charges and took 2 minutes to check. Informed that 1800 numbers were charged at standard call rates (90 cents per minute) but that there was no flagfall or connection charge.

