

29 May 2007

The Secretary
Senate Environment, Communications Information Technology and the Arts
Committee
PO Box 6100, Parliament House
CANBERRA ACT 2600

Email: ecita.sen@aph.gov.au



Dear Sir/Madam,

Subject: Comment to the Senate Inquiry - Communications Legislation (Content Services) Amendment Bill 2007

Please find attached Communications Alliance's submission in response to the Senate Inquiry - *Communications Legislation (Content Services) Amendment Bill 2007*

Yours sincerely,

Anne Hurley
Chief Executive Officer
Communications Alliance

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COMMENTS ON THE SENATE INQUIRY - COMMUNICATIONS LEGISLATION (CONTENT SERVICES) AMENDMENT BILL 2007

COMMUNICATIONS ALLIANCE

1. INTRODUCTION

Communications Alliance is pleased to have this further opportunity to provide comments on the *Communications Legislation (Content Services) Amendment Bill 2007*.

Communications Alliance was formed to provide a unified voice for the Australian communications industry and to lead it into the next generation of converging networks, technologies and services.

Communications Alliance offers a forum for the industry to make coherent and constructive contributions to policy development and debate. By providing leadership on new trends and directions, Communications Alliance fulfils a vital unifying role on behalf of the industry and its members, particularly in areas of competition, innovation and industry development.

The prime mission of Communications Alliance is to promote the growth of the Australian communications industry and the protection of consumer interests by fostering the highest standards of business ethics and behaviour through industry self-governance.

Communications Alliance has chosen not to provide a detailed submission against the Bill as the Australian Mobile Telecommunications Association (AMTA)¹ has submitted a detailed submission to this Inquiry and we are supporting and endorsing that submission as it reflects the views of industry stakeholders that share common membership between the two associations.

Communications Alliance will also note the key themes contained in its earlier submission in response to DCITA's request for comment on the '*Draft of the Communications Legislation (Content Services) Amendment Bill 2006*'. In that submission, Communications Alliance emphasised that it is in the best interests of all participants, customers and government that the industry takes responsibility for devising practical, self-imposed solutions that are developed by co-operative processes. Our earlier submission also spoke to the current regulatory scheme that is in place for mobile premium services.

2. RELATIONSHIP TO THE MPSD

The industry has spent considerable time and resources developing and implementing the Mobile Premium Services Industry (MPSI Scheme), which gives practical effect to *Telecommunications Service Provider (Mobile Premium Services) Determination 2005 No 1* (MPSD). The Scheme was approved by ACMA on 28 September 2006.

Communications Alliance concurs with AMTA's submission which states that the current concerns with the Bill can be addressed in a relatively straightforward manner through minor amendments to the Bill or by placing references in the Explanatory Memorandum as points of clarification - the detail of which can be resolved through discussions with the Department of Communications, Information Technology and the Arts (DCITA) and the Australian Communication and Media Authority (ACMA).

¹ AMTA Submission to the Senate Inquiry *Communications Legislation Amendment (Content Services) Bill 2007* – 28 May 2007

Communications Alliance specifically notes and supports key comments made in AMTA's submission regarding uncertainty as to how the Bill will affect the regulatory scheme operating under the MPSD. Communications Alliance supports AMTA's view that there will be a need for significant consultation between ACMA and industry to work through any required amendments to the MPSD and Scheme.

3. EXISTING SELF-REGULATORY REGIME

Although the Scheme has been in operation for only a short period of time and was designed to provide arrangements for an interim period pending implementation of the Government decision on longer term legislative structure, it is working well and addresses the policy objective of protecting consumers (particularly minors) from inappropriate content. The industry is committed to the Scheme's success and continues to invest in the Scheme's successful operation. In addition, the industry has implemented compliance programs to ensure that the rules of the Scheme are adhered to.

The Telecommunications Industry Ombudsman (TIO) is the 'Escalated Complaints Handling Body' nominated under the Mobile Premium Services Industry Scheme and provides a free and independent alternative dispute resolution scheme for small business and residential consumers who have a complaint about their telephone or Internet service, including complaints pertaining to mobile premium services.

One of the benefits of having the TIO act in the capacity of the escalated complaints handling body was to provide consumers with a 'one stop shop' for all their telecommunications complaints.

4. CONSUMER SAFEGUARDS CONTAINED IN SCHEME

The Scheme introduced a range of protective measures for consumers and imposes obligations on both carrier service and content service providers. Such protective measures include;

- A raft of rules related to subscription services, such as:
 - i. Advertising rules
 - ii. Appropriate customer consent
 - iii. Information up front – confirmation message
 - iv. Expenditure notification messages
 - v. Subscription reminder messages
 - vi. Easy opting out "stop" message
- The provisions of the scheme are binding on the scheme members and the review body
- Scheme members are required to post a copy of the scheme on the Internet for public inspection
- General advertising requirements
- Advertising age-restricted services and services for children
- Content assessment in accordance with Office of Film and Literature (OFLC) guidelines
- Rules requirement that consumers are informed of various prices, terms and conditions before use
- Clear information about fees and charges
- Information about how customers can unsubscribe from a subscription service
- Information for customers about terms and conditions of voting & competition services
- Information for customers about terms and conditions of chat services
- Complaints handling procedures

Communications Alliance is the Scheme Custodian which means that we have implemented a number of administrative support mechanisms to ensure the Scheme's ongoing success and have also introduced a number of awareness raising and education initiatives surrounding the Scheme.

As Scheme Custodian, we manage the Mobile Premium Services Industry Scheme Management Group [MPSI SMG]. The MPSI SMG is the ongoing group responsible for ensuring the currency and effectiveness of the Scheme and accompanying Guideline to the Mobile Premium Services Industry Scheme.

The MPSI SMG are comprised of equal representation of mobile and content service providers who are all committed to ensuring the safeguards and consumer protection enshrined in the Scheme and Guidelines to the Scheme are being complied with by industry stakeholders.

5. CONCLUSION

Communications Alliance supports the submission of AMTA.

Communications Alliance specifically notes and supports key comments made in AMTA's submission regarding uncertainty as to how the Bill will affect the regulatory scheme operating under the MPSD. Communications Alliance supports AMTA's view that there will be a need for significant consultation between ACMA and industry to work through any required amendments to the MPSD and Scheme.