

MOBILE PHONE BASE STATION DEPLOYMENT INDUSTRY CODE

EXPLANATORY STATEMENT

Introduction

This is the Explanatory Statement for the C564:2011 **Mobile Phone Base Station Deployment** Industry Code (the Code).

This Explanatory Statement outlines the purpose of the Code and the factors that have been taken into account in its development.

The Code replaces the C564:2004 **Deployment of Mobile Phone Network Infrastructure** Industry Code published by Communications Alliance in December 2004.

The objectives of this revised Code are:

- (a) to encourage an upfront collaborative approach between Carriers, local Councils and the community for proposed deployment of new mobile phone base stations;
- (b) to enhance the level of information supplied to Councils and the community with respect to mobile phone base stations;
- (c) to specify and improve standards in particular relating to consultation, accessibility and availability of information;
- (d) to identify at an early stage community sensitive locations and to apply a Precautionary Approach towards the deployment of mobile phone base stations; and
- (e) to ensure appropriate levels of notification and consultation are undertaken by the Carriers to local Councils and communities.

The Code supplements the requirements already imposed on Carriers under the existing legislative scheme by requiring them to consult with local communities and to adopt a Precautionary Approach in planning, installing and operating mobile phone base stations.

Why a Code is required

Mobile phone base stations are built by Carriers to supply telecommunications services to their customers. Notwithstanding the complex regulatory scheme that applies to many facilities, there is considerable community interest in the deployment (planning, installation and operation) of mobile phone base stations.

A common request of industry is that it should adopt a precautionary and more consultative approach to the deployment of mobile phone base stations. In relation to both low impact and non low impact facilities, this Code requires a consultative approach and provides a context for applying a Precautionary Approach to the deployment of mobile phone base stations. The Precautionary Approach is embodied in Australia's Intergovernmental Agreement on the Environment and a number of international documents (See *The Precautionary Principle* in Appendix A of the Code).

An underlying principle of this Code is that public health and safety is of paramount importance. In the context of this Code, the precautionary principle therefore means that precautions are taken to minimise exposure to radio emissions by virtue of their possible association with health problems in order to protect people even though radio emissions at low levels have not been proven to cause such problems.

In this Code, the Precautionary Approach is manifested in the obligations it imposes on Carriers.

Background

In 2002 the Australian Communications and Industry Forum published the *Deployment of Radiocommunications Infrastructure Industry Code*. This Code was developed to compliment the radiofrequency standard by applying a precautionary approach to the design, siting and operation of mobile phone base stations. It was also intended to improve Carriers' consultation processes with Councils and communities living near proposed infrastructure.

The benefits of this Code were that it standardised the obligations on Carriers by providing a set of rules so that Carriers were made aware of their increased responsibilities. Specifically, it required Carriers to:

- notify Councils about proposals for installation of all mobile phone base stations prior to construction;
- have regard to community sensitive sites;
- design and operate mobile phone base stations to minimise RF EMR exposure;
- develop consultation plans for the deployment of infrastructure that is not subject to Development Approval;
- turn off out-of-service transmitters;
- test their decisions about the deployment of infrastructure against a range of important factors; and
- document their decision making processes about the deployment of infrastructure.

In 2004 the Code was revised and renamed the *Deployment of Mobile Phone Network Infrastructure Industry Code*. During this revision the Code was amended to:

- extend Carrier consultation obligations; and
- incorporate the revised format of the RPANSA EME Report.

From 2010 to 2011, the second (current) revision of the Code took place and was limited primarily to consultation for new sites.

Current Regulatory Arrangements

This Code fits within an existing regulatory scheme that comprises:

- (a) the *Radiocommunications Act 1992*;
- (b) the *Telecommunications Act 1997*, particularly Schedule 3 of that Act;
- (c) the *Telecommunications Code of Practice 1997* issued by the Minister which is made under Schedule 3;
- (d) the *Telecommunications (Low Impact Facilities) Determination 1997*;
- (e) laws and regulations at State, Territory and Local Government level; and
- (f) the right to access to land to inspect, install or maintain low impact facilities.

Further information on these regulatory arrangements can be found in Appendix J of the Code.

How the Code builds on and enhances the current regulatory requirements

In installing mobile phone base station infrastructure, Carriers are required to comply with relevant Federal and state legislation. This legislation does not always specify standard obligations for consultation.

The Code supplements the regulatory regime by extending the obligations on Carriers when designing, siting and locating infrastructure. It requires them to apply a precautionary approach to these activities and to adhere to best-practice consultation methods as described below.

What the Code will accomplish

The revised Code will introduce a number of important improvements in how Carriers engage with the community and with local Councils when planning and deploying mobile phone base stations. These include:

- (a) the development and evolution of the consultation plan for new proposals;
- (b) greater transparency and visibility of the consultation process with local Councils and communities;
- (c) a longer period of consultation for local Councils and the community to comment on proposals for new infrastructure, including having regard to public and school holidays;
- (d) new and revised methods of communicating with local Councils and the community (e.g. via the RFNSA and Communications Alliance websites, simpler notification letters, better signage);
- (e) better guidance and examples of the type of letters, plans, signs and reports which Carriers will use when notifying and consulting with local Councils and the community;
- (f) up-to-date RF EMR Health and Safety information, reports and signage in keeping with the current and relevant standards; and
- (g) information on notices to inspect the land, maintain facilities and install low impact facilities, Facilities Installation Permits, compensation and land owners' rights.

During the revision process the Committee produced an Informational Portal currently hosted on the Communications Alliance website. This portal provides an overview of the Code and links to sites with relevant information.

What the Code cannot do

It is not within the scope of this Code or within the power of the Communications Alliance Committee to change the legislative scheme. Changes to this legislation are the responsibility of the Commonwealth, State and Territory Governments and Parliaments only. This Code can fit within the scheme but not change it.

A further restriction is that, because the Code draws its authority from the *Telecommunications Act*, it can apply only to telecommunications Carriers, carriage service providers and content service providers and certain others. However, as it is only Carriers who undertake the kinds of activities covered by the Code, it has been decided that the Code should apply only to them. This means that it is not binding on Broadcasters licensed under the *Broadcasting Act* or on many other bodies whose facilities are licensed under the *Radiocommunications Act*. For the same reason it cannot be binding on individuals, Councils or third parties who are not Carriers.

It is noted that some community concern exists regarding the impact of radiocommunications infrastructure on surrounding property values. This Code cannot directly deal with this issue but it attempts to address these concerns by:

- (a) considering community input on visual impact in this Code's consultation processes; and
- (b) the application of the Precautionary Approach.

One of the issues that has attracted considerable community discussion is co-location. Co-location is the practice of siting a number of different telecommunications facilities, often owned by different Carriers, in the one location. It is encouraged by Federal legislation as an efficient way to increase service levels and competition, while limiting the profusion of new towers and other infrastructure.

However, co-location may not always be a desirable option because:

- (a) adding additional antennas usually increases emissions;
- (b) it may be visually unacceptable;
- (c) there are physical and technical limits to the amount of infrastructure that masts are able to support; and
- (d) the planned RF coverage may not be achieved by a particular Carrier at the location.

In this Code, co-location is one of the many factors that must be considered by a Carrier in the siting and design of facilities, but should not be adhered to at the expense of other considerations identified by Councils and communities as important.

In developing this Code, the Working Committee has recognised that some locations are particularly sensitive to the community and has endeavoured to respect this sensitivity. Distances at which infrastructure must be sited from community sensitive locations was not specified on the basis that an arbitrary distance does not necessarily reflect a precautionary approach. For example, infrastructure sited further from a sensitive area may need to operate at greater power in order to meet a Carrier's service requirements and this may result in higher exposures in the area. It was recognised that there was considerable public interest in avoiding sensitive sites and a need to respect communities' sensitivities.

The Code will also provide Carriers with an opportunity to develop better working practices with Councils.

How the Objectives will be achieved

This Code is made under Part 6 of the *Telecommunications Act*. The way the legislation works is that Communications Alliance, representing a section of the telecommunications industry, makes the Code and, if the ACMA is satisfied that it meets certain statutory criteria, the ACMA must register it. Upon registration, the Code becomes mandatory on all Carriers.

Following registration, if there is a contravention of this Code, the ACMA may warn a Carrier about the contravention, or direct the Carrier to comply with the Code. Failing to comply with a direction may render the Carrier liable to significant financial penalties.

Carriers may also have obligations under State and Territory laws. However these matters are outside the operation of this Code.

The revised Code looks to improve the means of communication and accessibility of information to local Council and the community. In this regard the Working Committee recognises the growing trend towards online content and the various information portals available to the public. This Code outlines the process that ultimately provides the Carriers, Council and the community with greater flexibility and increased opportunity by way of online content and direct communication.

Anticipated Benefits to Consumers and the Public

The Code seeks to encourage Carriers to minimise, wherever possible, unnecessary and incidental radio emissions from mobile phone base stations by adopting a Precautionary Approach towards deployment activities.

Registration of this Code will strengthen and increase Carrier's consultation obligations with local Council and community by increasing transparency and ensuring greater and easier methods of accessing information are available.

Anticipated Benefits to Industry

The revised Code provides for improved working practices and better collaboration with communities and Councils. It encourages the early identification of stakeholders thus allowing industry to make informed decisions based on this involvement.

Anticipated Costs to Industry

The changes to this revised Code will likely impact the industry because additional training programs will be required for industry members to raise awareness of the changes and impacts of the Code and ensure compliance.

Industry will be constrained by the requirements of the Code.

Requirements to consult more broadly and to provide information not previously available may impose some delays in infrastructure deployment, will require extra resources and will increase the financial cost to industry.

Anticipated Costs to Consumers and the Public

Where it is not economically or technically feasible for Carriers to deploy mobile phone base stations following the provisions of the Code, some consumers may experience an absence of or reduction of performance in service.

Councils may also experience increased demand on their resources as a result of Carrier's code compliance.

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Chair

WC29 : Mobile Phone Network Infrastructure Revision Working Committee

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