

27 June 2017

Communications Alliance
Industry Managed Numbering Arrangements
Public Comments
<http://commsalliance.com.au/Documents/public-comment>

Introduction

ACCAN thanks the Communications Alliance for the opportunity to comment on their Consultation Paper, *Industry Managed Numbering Arrangements*.

ACCAN appreciates the role that Communications Alliance (CA) plays in telecommunications numbering, including the possibility of establishing a Numbering Scheme Manager. We note, however, that the Government has an ongoing oversight role in Numbering both through its Constitutional powers and its treaty obligations. The ACMA also has a continuing oversight role in numbering under Part 22 of the *Telecommunications Act 1997* (The Act).

As ACCAN has argued, numbering is an important issue for consumers both in the price signals it provides and in the affordability of telecommunications services. It is important, therefore, for ACCAN to be an integral part of any policy development process for changes to numbering, as well as an ongoing role in oversight processes for numbering.

Significant changes in both the communications services used and the underlying network itself challenge the existing numbering framework. The Government's requirement for more efficient, better regulatory arrangements also supports the establishment of a new industry-led numbering manager.

Clearly, CA has, through its industry members, the operational and technical expertise to develop and manage numbering in Australia. However, there must be an ongoing oversight role over numbering for both the Government and the ACMA. And, because of the impacts of numbering on consumers, ACCAN must be included in both the development of numbering policy and its implementation.

Numbering Framework

Numbering in Australia comes within the broader global framework of electronic addressing. Within that framework, the ACMA has managed numbering as both telecommunications infrastructure and services have changed. Until now, ACCAN has been part of the discussions on those changes.

The current numbering arrangements, however, are coming under increasing pressure both from the services that consumers use and from the changes to the network itself.

In just one year, adult Australians with a fixed line service at home dropped from 78 percent to 68 percent, with mobile phone only households rising from 3.41 million in 2012 to 7.6 million in 2016.¹ The network infrastructure is also changing. The existing network has been designed and built on local and gateway exchanges. In contrast, the NBN is being built around 121 points of Interconnect, which may or may not have any association with previous telephone exchanges. Indeed, the existing requirements for the provision of untimed local calls are based on local exchange areas as they existed in 1997.² Clearly, numbering will need to be overhauled to reflect the realities of customer use and network architecture.

Numbering and Consumers

The numbering plan and differential charging based on that plan are important for consumers. As ACCAN argued in its submission to the ACMA's paper, *Telephone Numbering – Future Directions*, numbering has an 'important role to play in achieving availability of accessible and affordable carriage services that enhance the welfare of all Australians.'³ Quoting from that submission:

Consumers still value the distinction between mobile and geographic numbers because of the pricing and contextual information these separate number ranges provide.⁴

Indeed, one of ACCAN's important campaigns centred on the cost of calling a Freephone or Local-Rate number from a mobile phone, a significant issue of affordability for low income Australians. Happily, that campaign resulted in the ACMA's commitment to amend relevant regulation following further consultation and have industry implement the changes by January 2015.⁵

Proposed Numbering Scheme Manager

New arrangements for the management of numbers are proposed in draft legislation, and in the CA consultation paper. Both have significance for consumers.

- **Proposed Legislative Change**

Schedule Six of the Communications Legislation Amendment (Deregulation and Other Measures) Bill 2017 is suggested as the mechanism by which responsibility for numbering can move from the ACMA to the proposed Numbering Scheme Manager.⁶ Under the proposed amendments, the Minister will have the power to determine a person as the Numbering Scheme Manager once the Minister is satisfied that the person will manage the numbering scheme in accordance with the principles including the following principles of concern to consumers:

- *future needs for numbering must be planned for, having regard to community needs, industry needs and global trends;*

¹ ACMA, *Communications Report 2015-2016*, p 4, 7.

² *Telecommunications (Consumer Protection and Service Standards) Act 1999* s. 106.

³ ACCAN, *Telephone Numbering – Future Directions*, February 2012, p 3. See also ACCAN's earlier submission to the ACMA, ACCAN, *Customer Location information and Numbering*, March 201.

⁴ ACCAN, *Telephone Numbering – Future Directions*, p. 6

⁵ ACCAN Media Release, Regulator Commits to Important 13/1800 Number Reform for Mobile Phones, 24 April 2012.

⁶ Note: Comments in this submission on the proposed framework are based in part on the Communications Legislation Amendment (Deregulation and Other Measures) Bill. If there are significant changes to the Bill as it becomes legislation, ACCAN will make further comments on the proposed Scheme.

- *the interests of users of carriage services must be protected, including in relation to the use and portability of numbers;*
- *the numbering scheme must support the use of emergency call services;*
- *the numbering scheme must include compliance mechanisms to provide for enforcement of scheme rules;*
- *the numbering scheme must make effective complaints processes available to both the telecommunications industry and users of carriage services;*
- *public consultation must be undertaken before any significant change to the numbering scheme.*⁷

Further, the Minister may revoke the determination of a person as a numbering scheme manager if he or she is satisfied that the scheme is not being managed in accordance with the principles or it is in the best interests of, inter alia, the general community.⁸

Under the draft legislation, the ACMA has the power to request a range of information relating to numbers. However, there is no requirement on the numbering scheme manager to report to the ACMA on overall management of numbers under the scheme.

While the CA Paper is not seeking comment on the enabling legislation, ACCAN believes that the Numbering Scheme Manager must be required to provide the ACMA with at least Annual Reports that can be tabled in Parliament. Currently, ACMA's Annual Reports contain information numbering charges,⁽⁹⁾ numbering arrangements ⁽¹⁰⁾ and numbering activities and reform.⁽¹¹⁾ If the Minister is to be satisfied that the proposed Scheme continues to meet its principles, there must be annual and publicly available reporting against each of the principles.

- **Communications Alliance Proposal**

Under the CA proposal, the ACMA would continue to set and collect annual numbering charges and 'smartnumber' revenue. It would retain the power to specify emergency service numbers in the Numbering Plan.⁽¹²⁾ It would also have reserve power to issue compliance directions to carriage service providers (CSPs) as a last resort.

ACCAN generally supports the establishment of an industry body to develop and manage numbering, including revisions to the Numbering Plan. Numbering raises complex technical issues and, as the peak industry body, CA membership has the operational and technical expertise to manage numbering.

⁷ Communications Legislation Amendment (Deregulation and Other Measures) Bill 2017, Clause 10, inserting s. 454A.

⁸ Ibid, inserting s. 454D

⁹ *Annual Reports 2015-16, the Australian Communications and Media Authority and the children's safety Commissioner* p. 34

¹⁰ Ibid, p. 57.

¹¹ Ibid, p 55-6.

¹² Communications Legislation Amendment (Deregulation and Other Measures) Bill 2017, Clause 10, amending s. 454.

- **Structure of Proposed Scheme**

CA's preferred option is for 'a policy committee within CA and a wholly owned subsidiary company to undertake operational matters'. With one major qualification, ACCAN has no objection to that structure.

The proposed structure for policy development includes a Numbering Policy Committee (NPC), a Numbering Working Group (NWG) and a Numbering Advisory Panel (NAP). The NPC would be responsible for policy and regulation, including oversight of both the NWG and NAP and operating directly under the CA Board. NPC membership would include an independent chair and eight industry representatives. The NWG would develop codes, guidelines etc, again with industry membership. It is only the NAP - a 'forum for canvassing stakeholder views' on policy issues - that provides for stakeholder membership. Under the proposed arrangements, the CA Board will establish and oversee the terms of reference of the NAP. In other words, policy development on numbering would move from the Government and regulator – and their consultative processes - into industry.

Because numbering policy significantly impacts on consumers, any discussions on numbering policy must include – at the policy table – ACCAN and other relevant consumer or public interest organisations, as well as the Government and regulators. Further, it is totally inappropriate that the CA Board – composed of industry representatives – would have a veto over decisions of a policy committee whose membership includes all of the stakeholders for numbering. Indeed, to emphasise the independence of the NCP from the CA Board, it should be renamed as the Independent Numbering Policy Committee (INPC).

The NWG could then focus on the operational and technical issues that arise from the development of a Numbering Plan and its management. There could still be a role for forums to obtain stakeholder feedback on specific issues such as numbering for services outside of the fibre areas and/or using satellite services.

Response to the following question: Do you agree that establishing a numbering policy committee and subsidiary company to manage the implementation and operational delivery of the framework is likely to be the best approach to delivering industry management of numbering, after taking all factors into consideration?

ACCAN does not agree with the structure and composition of the proposed NPC. Numbering policy, through the INPC, must be developed through discussions that involve industry, Government, regulators and consumers. It must also be made clear that the CA Board does not have the authority to override policy decisions taken by the INPC.

Numbering Codes

Currently, there are a number of consumer protections in numbering codes registered by the ACMA. Although those codes are voluntary, the ACMA has a range of powers under the Act to enforce

them, including issuing infringement notices, accepting enforceable undertakings, issuing formal warnings or directions.¹³

The proposal is that, under the Numbering Scheme Manager, there will be ‘high level principles’ on the use and allocation of numbers, supported by industry codes ‘that set out the business rules for the assignment and use of numbers, and specifications detailing the business-to-business (B2B) processes used to implement the business rules.’¹⁴ However, as the footnote explains, those codes will not be registered.¹⁵

While codes and guidelines on purely operational and/or technical matters need not be registered, ACCAN believes that Numbering Codes that impact on Consumers should remain as registered codes and enforceable under the Act.¹⁶

Response to the following question: What is your view of the industry proposal to create an industry managed numbering scheme?

All Numbering Codes that concern consumers’ right to and use of numbers must be registered under Part 6 of the Act.

Conclusion

ACCAN will support the development of and management of numbers through the establishment of a Numbering Scheme Manager, under the aegis of CA, with the following conditions:

- Government, regulators and consumers must be members of the proposed Numbering Policy Committee (NPC)
- The CA Board not be given authority to override policy decisions by the NPC.
- All numbering codes that concern consumers’ right to and use of numbers must be registered under Part 6 of the Act.

¹³ *Telecommunications Act 1997*, Part 31A, Part 31B. s. 122 and s. 121.

¹⁴ *Consultation Paper*, p. 11.

¹⁵ *Ibid*, fn 11.

¹⁶ Registered Codes that impact consumers include Local Number Portability, Mobile Number Portability, Rights of Use of Numbers and Rights of Use of Premium Rate Service Numbers.