

5 May 2014

Communications Alliance Comments for the DoC Online Discussion Board re Proposed Measures for the Telecommunications Deregulation No 1, 2014

Communications Alliance congratulates the Department of Communications on the development of the suite of measures that have been included in the proposal for Repeal Day 2.

We also welcome the positive and constructive consultation that is taking place at both the Ministerial and Departmental levels as part of the Government's red-tape reduction initiative.

Communications Alliance and its carrier/carriage service provider members would be pleased to continue to work with Government to develop the detail of these and other measures, including implementation planning and the drafting of consequent legislation. We see this as an important element of the process, because deregulation inevitably carries the risk of unintended consequences arising from the removal or amendment of pieces of a complex regulatory framework.

In this post we will provide comments on the seven proposals contained in the consultation paper and will also make an additional proposal for the consideration of Government and other stakeholders.

1. Pre-selection

- Communications Alliance supports the proposal.
- While it might be implicit in the proposal outlined in the consultation paper, we believe that the Government should state explicitly that the existing pre-selection obligations should be retained – i.e. that is the existing suite of services covered by pre-selection. It needs to be remembered that pre-selection can be and is made available today in respect of some services other than the PSTN – for example ISDN services.
- It would be helpful for the proposal to also state clearly that NBN services provided over any NBN network (including fibre, FTN/B, wireless and satellite) should not be subject to any pre-selection obligations.
- Wholesale providers currently make use of pre-selection to move (the long-distance traffic of) customer bases between providers, so maintaining this capability on legacy networks is pro-competitive.
- The current three year exemption from the need to offer pre-selection on NBN-based networks should be extended if it would expire before the legislative amendment came into effect.

2. Confidentiality of Telecommunications - Part 13

- Communications Alliance supports the proposal to remove Part 13 of the *Telecommunications Act 1997* and include required sections to protect legal disclosure in either the *Privacy Act* or *TIA Act*.
- We see this initiative as a sensible means of removing duplication and providing greater clarity about the privacy framework. It is not intended to, nor should it be allowed to lead to any erosion of the privacy rights of all Australians.

3. Part 9A of TCPSS Act

- Communications Alliance supports the repeal of Part 9A and the rationale provided in the consultation paper.

4. CSG

- The proposed changes are consistent with the thrust of the proposals put forward by Communications Alliance in its submission to Government on the red-tape reduction initiative – and are supported by Communications Alliance
- We note that the detail of the drafting to deliver these changes will be important, and must be linked to the service levels offered by the wholesale provider.
- We suggested that service providers could publish their customer service commitments, including what rights a customer would have if commitments are not met.
- We note that the changes proposed in the ACMA Reporting Requirements paper are not consistent with those in the DoC paper.
- We question whether any reporting obligations will be required – it will be readily observable by customers as to whether CSPs are meeting their service level commitments.

5. Priority Assistance

- Communications Alliance supports the proposal.

6. Retail Price Controls

- Communications Alliance supports the proposal
- This reform is in line with the principle that Government should not have any role in the setting of prices in the telecommunications sector.

7. Local Presence Plan

- A majority of Communications Alliance members support the proposal.

8. Additional Proposal – to Repeal or Amend the Telecommunications (International Mobile Roaming) Industry Standard 2013.

- We recognise why, in 2012, Government believed it was necessary to create a Standard of this type. The reality is, however, that the resulting instrument is too prescriptive and complex, and adds very significant cost to industry without necessarily generating commensurate benefit for consumers. The Standard is also duplicative of the general requirements on service providers, contained in the *Telecommunications Consumer Protections (TCP) Code 2012*, to provide information to customers to enable them to manage their telecommunications spend.

- It should also be recognised that the international roaming market has evolved in very positive ways during the past 12 months, with major Australian providers announcing a raft of initiatives designed to reduce and/or cap the cost of roaming connections for Australians travelling abroad.
- Communications Alliance believes it should be possible to revoke the Standard and rely on the TCP Code requirement – potentially with the addition of relevant text to the TCP Code via a code amendment.
- If the repeal of the entire Standard cannot be achieved, Communications Alliance believes that, at a minimum, the Government/ACMA should revoke clause 9(3) of the Standard – which would trigger the repeal of the associated clauses 9(4), 9(5), 9(6) and an amendment to clauses 9(7) and 9(8)).
- We believe that the first tranche of IMR Standard requirements (warning, tariff and opt-out messages) has achieved the policy intent of the Standard, and the requirements in clause 9(3) of the Standard are therefore not needed and impose unnecessary costs on providers, as they require systems developments which would otherwise not be undertaken.
- We believe this is a good example of where the regulation should be based on the desired outcome – ensuring spend management tools for roaming are provided to assist consumers – rather than on prescribing what those tools should be and how they should function.