

AUSTRALIAN  
COMMUNICATIONS  
INDUSTRY FORUM



INDUSTRY CODE  
ACIF C554:2004  
RIGHTS OF USE OF PREMIUM RATE SERVICE  
NUMBERS

**ACIF C554:2004 Rights of Use of Premium Rate Service  
Numbers Industry Code**

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## **EXPLANATORY STATEMENT**

This is the Explanatory Statement for the ACIF C554:2004 ***Rights of Use of Premium Rate Service Numbers*** Industry Code.

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

The terms used in this explanatory statement are capitalised and are defined in the Code.

### **Background**

This Code has been developed under the auspices of the Australian Communications Industry Forum (ACIF) and when registered with the Australian Communications Authority (ACA) will augment the provisions of the *Telecommunications Numbering Plan 1997* (Numbering Plan).

Telecommunications numbers are regarded as a national resource and are not in any sense owned by any person to whom they are Allocated, transferred or Issued. Ownership of numbers is never passed to a Carriage Service Provider (CSP) upon allocation, or to a customer upon Issue, but remains with the Commonwealth of Australia.

In accordance with the Numbering Plan, CSPs have obligations to Customers about the use of numbers Issued to them in accordance with the Numbering Plan. A person Issued with a number may, subject to the provisions of the Numbering Plan and this Code, enjoy the beneficial use of the number freely and without hindrance.

### **Current regulatory arrangements**

Numbering of Carriage Services is regulated under Part 22 of the *Telecommunications Act 1997* (Act), and by the Numbering Plan, made by the ACA under the Act. Charges are imposed on the allocation of numbers by the *Telecommunications (Numbering Charges) Act 1997*.

Part 22 of the Act sets out the broad requirements for the numbering of Carriage Services including the requirement that the ACA develop a Numbering Plan after a consultation process. CSPs must comply with the Numbering Plan, which also provides for number portability upon direction of the Australian Competition and Consumer Commission (ACCC). The ACA also has general powers of administration of the Numbering Plan.

The Numbering Plan provides the broad requirements for number allocation and CSPs obligations for issuing and transferring of numbers, and their placement in/withdrawal from Quarantine. The requirements apply to various number categories including geographic numbers, freephone and local rate numbers, and data numbers.

### **Why current regulatory arrangements are inadequate**

The Numbering Plan does not include detailed guidance in regard to rights of use of Premium Rate Service Numbers, adopting instead a higher-level approach towards setting out the requirements involved in the allocation, Issue, transfer and Quarantine of numbers.

## **How the Code builds on and enhances the current regulatory arrangements**

The areas in which this Code enhances regulatory requirements are:

- (a) The Code will require a written right of use record identifying the rights of use holder to whom the Number has been Issued.
- (b) The Code will provide additional clarity about the process whereby the rights of use holder may agree for the Premium Rate Service Provider to Recover and Issue the Number to another party who becomes the rights of use holder.
- (c) The Code will define the process for moving the Premium Rate Service Numbers between the Premium Rate Service Providers.

## **What the Code will accomplish**

This Code addresses the Premium Rate Service industry's approach to self regulation of ROU for Premium Rate Service Numbers.

The prime aims of the Code are:

- (a) to identify the person with the authority to Issue and Recover Premium Rate Service Numbers; and
- (b) to provide a means of identifying or establishing the party holding the ROU of the Premium Rate Service Number; and
- (c) to provide a process for the party holding the ROU to transfer the ROU to another party (eg sale of Business); and
- (d) to assist with the process of moving the Premium Rate Service Numbers between Premium Rate Service Providers.

## **How the Code achieves the objectives**

It is anticipated that all suppliers will comply with the Code, either directly as Code Signatories or indirectly by code registration by the ACA.

This Code is designed to clarify the processes and obligations of all Premium Rate Service Providers in regard to Issuing and Recovery of Premium Rate Service Numbers. In practice this is achieved by a mandatory written record between the Premium Rate Service Provider issuing a Number and the ROU Holder to whom it is Issued, or from whom it is being Recovered.

The Code clarifies that a customer gains rights of use of a Number when a CSP Issues a Number in association with a service, and may enjoy beneficial use of the Number freely and without hindrance while a service is provided in association with the Number. The Code clarifies the process by which a customer who is the rights of use holder may also Move their Number to another Premium Rate Service Provider on the same Carrier's network.

## **Anticipated benefits to consumers**

The Code although not of direct benefit to consumers may assist consumers by promoting greater availability of Premium Rate Services through providing industry certainty in relation to ROU of Numbers.

It is important to note that the Code is not involved in the assessment or regulation of Content.

## **Anticipated benefits to industry**

In accordance with section 110 of the Act, the following sections of the industry are participants in the Premium Rate Service "industry": Carriage Service Providers (ie Carriers and Premium Rate Service Providers), and Content Providers. The industry delivers Content Services via telephone systems to the calling party and bills the Content, call, and other charges, to the caller's account.

This Code affects all parties involved in the provision of Premium Rate Services. It assists the Premium Rate Service industry by promoting compliance with the ROU obligations based on those contained within the Numbering Plan. It is anticipated that the Code will contribute to the growth of the Premium Rate Service industry and therefore benefit consumers.

In the Premium Rate Services industry, the relationships between the various parties providing the service vary on a case-by-case basis and are generally more complex than for other sectors of the Telecommunications industry. Consequently this industry specific Code has been developed to establish a framework by which the industry can manage the matters relating to the ROU of Premium Rate Service Numbers. Optionally, in accordance with the provisions of this Code, industry participants may choose to rely on the provisions of ACIF C566:2004 **Rights of Use of Numbers** Industry Code which is not industry specific.

This Code has been designed to provide a common approach and certainty to all industry participants about who is the ROU Holder for Numbers, and how Numbers may be Moved between industry members.

The direct benefit flowing from this Code will be towards industry members.

## **Anticipated costs to industry**

The Working Committee has endeavoured to minimise any potential costs of complying with Code provisions by taking the following steps:

- (a) providing for the Code to apply to all Numbers Issued and transferred after the date of effect of the Code, so minimising costs by not impacting services currently in operation;
- (b) mandating a clear written statement on the ROU of Premium Rate Service Numbers at the time they are Issued (or Recovered). In this way, without undue financial and administrative burdens on participants, the likelihood of future disputes and litigation in regards to ROU should be reduced;
- (c) providing an alternative mechanism for identifying the ROU Holder by means of an SFOA in limited circumstances; and
- (d) prescribing a mechanism based on the production of pro-forma documents (eg. the ROU Record and the Movement Advice Form), and also a "closed loop" process, to ensure the integrity of Number Moves between Premium Rate Service Providers and between ROU Holders and so minimise potential disputes and associated costs.

## **Other public interest benefits or considerations**

In the opinion of the Working Committee, there are no other public interest matters either raised or addressed by the Code.

This Code applies to Moving Numbers between Premium Rate Service Providers on the same Carrier's network. This Code presently does not cover situations where Premium Rate Service Numbers may be "ported" across different Carriers' networks. This Code

may require review and update, as a consequence of Premium Rate Service number portability.

Paul Reptis

Chairman

**OCR/PWC09 : Rights of Use of Premium Rate Service Numbers** Working Committee

## **PARTICIPANTS**

The Working Committee that developed the Code consisted of the following organisations and their representatives:

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ACA	Non-voting	Helen Papazoglou
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Optus Communications	Non-voting	Gary Smith
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Independent Corporate Services	Voting	Anthony Leong
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This Working Committee was chaired by Paul Reptis. Terry Andersen and Margaret Fleming of ACIF provided project management support.

## TABLE OF CONTENTS

<b>1</b>	<b>INTRODUCTION AND REGISTRATION WITH ACA</b>	<b>3</b>
1.1	Introduction	3
1.2	Registration with ACA	3
<b>2</b>	<b>SCOPE AND OBJECTIVES</b>	<b>4</b>
2.1	Scope	4
2.2	Objectives	4
2.3	Applicability	4
2.4	Overview	6
<b>3</b>	<b>CODE ADMINISTRATION AND COMPLIANCE</b>	<b>7</b>
3.1	Code Administration and Compliance Scheme	7
3.2	Power to handle Industry Complaints under this Code	7
3.3	Code review	7
3.4	Notices given pursuant to Code	7
<b>4</b>	<b>ACRONYMS, DEFINITIONS AND INTERPRETATIONS</b>	<b>9</b>
4.1	Acronyms	9
4.2	Definitions	9
4.3	Interpretations	11
<b>5</b>	<b>REFERENCES</b>	<b>13</b>
<b>6</b>	<b>ISSUING AND RECOVERING NUMBERS</b>	<b>14</b>
6.1	Which CSP holds the Number	15
6.2	Authorisation to Issue or Recover Numbers	15
<b>7</b>	<b>PRSP OBLIGATIONS FOR IDENTIFICATION OF THE ROU HOLDER</b>	<b>17</b>
<b>8</b>	<b>ROU HOLDER'S RIGHTS AND OBLIGATIONS</b>	<b>18</b>
<b>9</b>	<b>THE ROU RECORD</b>	<b>19</b>
<b>10</b>	<b>THE RECOVERY RECORD</b>	<b>20</b>
<b>11</b>	<b>CHANGE OF ROU HOLDER</b>	<b>21</b>
<b>12</b>	<b>SERVICE CANCELLATION AND RECOVERY OF NUMBERS</b>	<b>22</b>
<b>13</b>	<b>QUARANTINE OF NUMBERS</b>	<b>23</b>
<b>14</b>	<b>LAPSE OF RIGHTS OF USE OF NUMBERS</b>	<b>23</b>
<b>15</b>	<b>MOVING A PRS WITH THE NUMBER BETWEEN PRSPS</b>	<b>23</b>
	<b>APPENDIX A INDUSTRY SCENARIOS (list is not exhaustive)</b>	<b>25</b>
	<b>APPENDIX C RECORD OF RECOVERY OF A NUMBER PROFORMA</b>	<b>27</b>
	<b>APPENDIX D MOVEMENT ADVICE FORM</b>	<b>29</b>



# 1 INTRODUCTION AND REGISTRATION WITH ACA

## 1.1 Introduction

- 1.1.1 Section 112 of the *Telecommunications Act 1997* sets out the intention of the Commonwealth Parliament that bodies and associations in the telecommunications industry develop industry codes relating to the telecommunications activities of those bodies.
- 1.1.2 The development of this Code has been facilitated by the Australian Communications Industry Forum (ACIF) through a Working Committee comprised of representatives from the telecommunications industry and Government regulatory agencies.
- 1.1.3 This Code should be read in the context of other relevant Codes and Guidelines, including the ACIF C566:2004 **Rights of Use of Numbers** Industry Code.
- 1.1.4 This Code should be read in conjunction with related legislation, including:
  - (a) *Telecommunications (Consumer Protection and Service Standards) Act 1999*;
  - (b) *Trade Practices Act 1974*;
  - (c) State and Territory legislation on Fair Trading and Door to Door Selling; and
  - (d) *Telecommunications Act 1997*.
- 1.1.5 If there is a conflict between the requirements of this Code and any requirements imposed on a supplier by statute, the supplier will not be in breach of this Code by complying with the requirements of the statute.
- 1.1.6 Statements in boxed text are a guide to interpretation only and not binding as Code rules.

## 1.2 Registration with ACA

This Code is registered with the Australian Communications Authority pursuant to section 117 of the *Telecommunications Act 1997*.

## **2 SCOPE AND OBJECTIVES**

### **2.1 Scope**

- 2.1.1 This Code is applicable to the following sections of the telecommunications industry under section 110 of the Telecommunications Act 1997. They are collectively referred to as "suppliers":
- (a) Carriers; and
  - (b) Carriage Service Providers.
- 2.1.2 This Code deals with the Transfer of Telecommunications Service(s) in relation to telecommunications activities by suppliers, as defined in section 109 of the Telecommunications Act 1997, including the following:
- (a) carrying on business as a Carrier; or
  - (b) carrying on business activities as a Carriage Service Provider; or
  - (c) supplying Goods or Service(s) for use in connection with the supply of a Listed Carriage Service.
- 2.1.3 This Code addresses the PRS industry's approach to self-regulation of ROU for PRS Numbers. The prime aim of the Code is to:
- (a) provide a process to identify the person to whom a Number is Issued (the ROU Holder); and
  - (b) protect the interests of ROU Holders.

### **2.2 Objectives**

The Code is intended to:

- (a) recognise and protect the interests of ROU Holders in Numbers;
- (b) recognise and protect the investment and interest in Numbers of the parties involved in the provision of a service;
- (c) provide certainty in arrangements for Numbers so that the identity of the ROU Holder can be clearly ascertained and be supported by appropriate contractual arrangements; and
- (d) provide a concise procedure for ROU Holders to Move their Numbers between PRSPs.

### **2.3 Applicability**

- 2.3.1 The Code applies to the following sections of the telecommunications industry:
- (a) Carriers; and
  - (b) Carriage Service Providers.
- 2.3.2 The Code addresses the following:
- (a) Issuing the Number leading to the creation of ROU;

- (b) the identification of the person to whom the Number is Issued and has the ROU of a Number;
- (c) the Recovery and Issue of a Number by request from the ROU Holder, to another party; and
- (d) the Movement of a Number between PRSPs.

2.3.3 The Code does not apply to:

- (a) regulating the Content of a PRS; or
- (b) Number transfers in the context of the *Telecommunications (Numbering Charges) Act 1997*; or
- (c) number portability (ie where an ROU Holder Moves a Number between Carriers).

*NOTE: The Code requires that a Number be Issued in writing, and that generally a ROU Record be completed. This could cause difficulties e.g. where the service to be provided on a Number entails the Issue of Numbers to customers on large scale. To overcome the need to Issue an ROU Record to large numbers of customers, the Standard Form of Agreement could be used to identify the person to whom and when a Number is Issued.*

*NOTE: Standard Form of Agreement are dealt with in Part 23 of the Telecommunications Act 1997.*

*NOTE: One objective of requiring a CSP (or PRSP) to use an ROU Record was to ensure where a PRS is supplied to an IP and the associated Number is Issued to a CSP, rather than to the IP, that the IP was aware that it would not have ROU in the Number. The reason that a ROU Record is not prescribed in the circumstances dealt with by clause 2.3.4, is because when an SFOA is used the Number must be Issued to the person (IP) to whom the associated PRS is supplied. Accordingly, there is no reason to require that person to acknowledge that the Number has been Issued to the CSP. The circumstance simply does not arise.*

2.3.4 Clauses 7.3, 7.4, 7.5, 9.1, 9.2, 10.1, 10.2, 10.3, 11.1(b), 11.1(c), 12.2, 12.3, 12.4 and 12.5 of this Code do not apply:

- (a) to CSPs where the terms and conditions on which the CSP supplies a PRS are set out in a SFOA that has been lodged with the ACA under section 481 of the *Telecommunications Act 1997*; and
- (b) that SFOA identifies:
  - (i) the point in the dealings between the CSP and the person to whom the PRS is supplied, at which the Number is Issued to a person; and
  - (ii) the person to whom the Number is Issued; and
  - (iii) the point at which the Number is Recovered from that person.

*NOTE: For the purposes of 2.3.4 (b) (ii) and (iii) it is sufficient to identify the location of a register where this information is kept.*

- 2.3.5 Clause 2.3.4 does not apply if the issuing CSP supplies the PRS to another person and Issues the Number to itself.

## **2.4 Overview**

This Code commences on registration by the ACA and focuses solely on ROU of PRS Numbers. In order to distinguish PRS Numbers from other service Numbers, the concepts of Premium Rate Service and the parties involved in the service provisioning arrangements have been defined.

Generally the Code prescribes that ROU are created when a Number is Issued by a CSP to an Information Provider who is the nominal ROU Holder. The ROU lapse following cessation of the service when the Number is Recovered. The Code defines the constraints and processes for identifying the ROU Holder and the Movement of Numbers between PRSPs.

### 3 CODE ADMINISTRATION AND COMPLIANCE

#### 3.1 Code Administration and Compliance Scheme

Under ACIF Code signatory arrangements, Signatories to this Code are subject to ACIF's G514:2003 **Code Administration and Compliance Scheme** (the Scheme). Accordingly, all Signatories who are bound by this Code are also bound by the Scheme.

#### 3.2 Power to handle Industry Complaints under this Code

- 3.2.1 Complaints may be made under this Code to ACIF by a member of the industry (or a voluntary or non-profit consumer organisation or similar body) (an "Industry Complaint") about a contravention of this Code by a Signatory to this Code.
- 3.2.2 Complaints by a member of the industry (or a voluntary or non-profit consumer organisation or similar body) about a contravention of this Code by a Signatory to this Code may be referred from the ACA under the power granted to the ACA in section 514 of the *Telecommunications Act 1997*, subject to ACIF's agreement to accept the referral. Without limiting the grounds on which ACIF may withhold its agreement to accept a referral, ACIF may withhold its agreement where it considers that the complaint can be more conveniently dealt with in another forum or that handling the complaint may impose an unreasonable cost burden on ACIF.

ACIF must handle Industry Complaints under Clause 3.2.1 or 3.2.2 of this Code in accordance with the provisions of the ACIF G514:2003 **Code Administration and Compliance Scheme**.

#### 3.3 Code review

Review of this Code will be conducted after two years of initial registration with a subsequent 5 year review. This Code may require early review and update, as a consequence of Premium Rate Service number portability, that has been foreshadowed by the ACCC.

#### 3.4 Notices given pursuant to Code

A notice or other communication to be given under this Code must be delivered by hand, sent by pre-paid post to the intended recipient's address or transmitted by facsimile, and if it is transmitted by facsimile a copy must be sent to the addressee by pre-paid post.

Unless the contrary is proved, a notice or other communication will be taken to have been given and received if:

- (a) delivered by hand, on the day of delivery if that day is a Business Day, and otherwise on the next Business Day after delivery;
- (b) sent by pre-paid mail, the third Business Day after the date of posting; and
- (c) transmitted by facsimile and a correct and complete transmission report is received by the sender, on the day of transmission if the

report states that the transmission was completed before 17.00 hrs on a Business Day in the place of receipt, and otherwise at 09.00 hrs on the next Business Day in the place of receipt.

## 4 ACRONYMS, DEFINITIONS AND INTERPRETATIONS

### 4.1 Acronyms

For the purposes of this Industry Code, the following acronyms apply:

<b>ACA</b>	Australian Communications Authority
<b>ACIF</b>	Australian Communications Industry Forum
<b>CSP</b>	Carriage Service Provider
<b>CP</b>	Content Provider
<b>IP</b>	Information Provider
<b>MAF</b>	Movement Advice Form
<b>PRS</b>	Premium Rate Service
<b>PRSP</b>	Premium Rate Service Provider
<b>ROU</b>	Rights of Use (of a Number)
<b>SFOA</b>	Standard Form Of Agreement

### 4.2 Definitions

For the purposes of this Industry Code, the following definitions apply:

**Allocate**

has the same meaning as the term used in the Numbering Plan.

*NOTE: means part of the second tier process by which a Number passes from the ACA to a CSP (refer to the figure in Appendix E).*

**Act**

means the *Telecommunications Act 1997*.

**Business Day**

means a day that is not a Saturday, a Sunday or a gazetted public holiday in the place concerned.

**Carriage Service**

has the meaning given to it in section 7 of the Act.

**Carriage Service Provider (CSP)**

has the meaning given to it in section 87 of the Act.

**Carrier**

has the meaning given to it in section 7 of the Act.

**Communication**

has the same meaning given to it in section 7 of the Act.

**Content**

means material forming part of a Communication, which is provided via a Content Service.

**Content Provider (CP)**

means a person or entity who has a contractual relationship with an Information Provider to supply Content for distribution by the Information Provider.

**Content Service**

has the meaning given to it in section 15 of the Act.

**Contract**

means, unless otherwise stated, a Contract between a PRSP and an IP for the supply of a PRS.

**Information Provider (IP)**

means a person who has entered into a Contractual agreement with a PRSP/CSP to distribute Content in association with a Premium Rate Service.

**Issue (a Number)**

has the same meaning as the term used in the Numbering Plan.

<p><i>NOTE: means a third tier process by which a CSP gives a Number to the customer, ie to an Information Provider or a PRSP in association with a PRS (refer to figure in Appendix E).</i></p>
--

**Move (a Number)**

means that, subject to the provisions of this Code, the ROU Holder changes to a gaining PRSP for supply of the PRS using the same Number and where the gaining PRSP uses the same Carrier network as the donor PRSP (refer to the figure in Appendix E).

**Movement Advice Form (MAF)**

means a form completed by a ROU Holder and a gaining PRSP to Move a Number from the ROU Holder's current PRSP.

**Number**

means a number for use in connection with a PRS.

**Numbering Plan**

means the *Telecommunications Numbering Plan 1997* made by the ACA pursuant to section 455(1) of the Act.

**Premium Rate Service (PRS)**

means a Carriage Service which is associated with a Number defined as a Premium Rate Service Number in the Numbering Plan.

**Premium Rate Service Provider (PRSP)**

means a CSP who supplies or arranges for the supply of a Premium Rate Service to an Information Provider and Issues the Number.

*NOTE: A PRSP may also be an IP.*

**Quarantine (a Number)**

means the status in which a Number is held following the Recovery of the Number.

**Recover**

has the same meaning as the term used in the Numbering Plan.

**Recovery Record**

means a document:

- (a) used to Recover a Number from a ROU Holder; and
- (b) is the form shown in Appendix C (Record of Recovery of a Number).

**Rights of Use (ROU)**

means the right, subject to the provisions of this Code, the Numbering Plan and the Act, to enjoy the beneficial use of the Number, and to move the Number to another PRSP.

**ROU Record**

means a document:

- (a) used by a PRSP to Issue a Number to itself or to another person;
- (b) used by an IP or a PRSP to acknowledge that it has no ROU in relation to the Number; and
- (c) is the form shown in Appendix B (Rights of Use Record).

**ROU Holder**

means a person to whom the Number is Issued.

**ROU Transfer**

means the transfer of ROU in a Number, by the ROU Holder, to another party.

**Standard Form Of Agreement**

means a Standard Form of Agreement given to the ACA under section 481 of the Act.

**4.3 Interpretations**

In this Code, unless the contrary appears:

- (a) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (b) words in the singular includes the plural and vice versa;
- (c) words importing persons include a body whether corporate, politic or otherwise; and
- (d) a reference to a person includes a reference to the person's executors, administrators, successors, officer, employee, volunteer,

agent and/or subcontractor (including but not limited to, persons taking by novation) and assigns.

## 5 REFERENCES

<b>Publication</b>	<b>Title</b>
<b>Industry Codes</b>	
C566:2004	Rights of Use of Numbers
<b>Industry Guidelines</b>	
G514:2003	Code Administration and Compliance Scheme
<b>Industry Documents</b>	
<i>Telecommunications Act 1997</i>	
<i>Telecommunications (Consumer Protection and Service Standards) Act 1999</i>	
<i>Telecommunications Numbering Plan 1997</i>	
<i>Trade Practices Act 1974</i>	

## 6 ISSUING AND RECOVERING NUMBERS

*NOTE: The person who holds ROU to a Number is the person to whom it is Issued under the Numbering Plan. The CSP that holds a Number can Issue the Number to itself or to another person (the customer). The CSP may also authorise another person to Issue Numbers to customers on its behalf. A Number is held by a CSP either because it was Allocated to the CSP by the ACA, or because it was transferred to the CSP by another CSP who held the Number.*

*To establish whether a customer has been Issued a Number by a CSP, it is first necessary to establish which CSP held the Number at the relevant time, and whether that CSP, or someone authorised by that CSP, Issued the Number to the customer.*

*It is also possible under chapter 10 of the Numbering Plan for the CSP that holds a Number to Move a Number between customers, for example on sale of a business. This process requires that the Number be Recovered from the customer to whom it was Issued, and then Issued to the new customer. When a Number is Recovered from a customer, the customer loses ROU to the Number. A CSP can also Recover a Number from a customer in other circumstances, but its ability to do so is constrained by the Numbering Plan. To be able to trace the ROU of a Number, it is therefore necessary to be able to establish whether a person was authorised to Recover the Number.*

*For these purposes, the rules below set out a process for establishing:*

- (a) which CSP holds a Number; and*
- (b) if the Number was not Issued by the CSP who held it at the relevant time, whether the person who Issued it was authorised to do so by that CSP; and*
- (c) whether a person is authorised to Recover a Number.*

### *WHICH CSP HOLDS A NUMBER?*

*To establish which CSP holds a Number the CSP to which the Number was last Allocated by the ACA must be identified, and any transfers of the Number between CSPs must be traced.*

*The person to whom a Number was last Allocated by the ACA, and the permanent transfer of a Number between CSPs, can be established by reference to the ACA's records. This is because permanent transfers of Numbers must be notified to the ACA under the Numbering Plan.*

*Accordingly, this Code only needs to provide a process for identifying:*

- (a) whether or not a transfer of a Number between CSPs is permanent; and*
- (b) what happens to a Number at the end of a non-permanent transfer.*

*The Code therefore requires that when CSPs enter into an arrangement in relation to a Number, they must state in that arrangement whether or not the arrangement is a transfer of the Number for the purposes of section 7 of the Numbering Plan. If the arrangement is a non-permanent transfer for those purposes, the arrangement must also provide for the transfer of the Number at the end of the non-permanent transfer, or the surrender of the Number to the ACA.*

## 6.1 Which CSP holds the Number

- 6.1.1 If a CSP enters into an arrangement with another CSP regarding a transfer of a Number for the purposes of section 7 of the Numbering Plan, that arrangement must be in writing.
- 6.1.2 A CSP must ensure that the written record of an arrangement referred to in clause 6.1.1 states whether or not it is an arrangement for the transfer of a Number for the purposes of section 7 of the Numbering Plan.
- 6.1.3 A CSP that enters into an arrangement for the transfer of a Number that is not a permanent transfer of the Number for the purposes of section 7 of the Numbering Plan, must ensure that the arrangement provides for:
- (a) the transfer of the Number for the purposes of that section at the end of the non-permanent transfer; or
  - (b) the surrender of the Number to the ACA at the end of the non-permanent transfer.

*NOTE: A non-permanent transfer may end, for example, through the expiry or earlier termination of a contract.*

*It is possible for a Number to transfer from one CSP to another without necessarily moving the numbering charge liability attached to the Number under the Telecommunications (Numbering Charges Act) 1997. See the Explanatory Memorandum to the Telecommunications (Numbering Charges) Amendment Bill 1999.*

## 6.2 Authorisation to Issue or Recover Numbers

- 6.2.1 If a Number is to be Issued by a person who is not the holder of the Number that person must be authorised by the CSP who holds the Number to Issue it on their behalf.
- 6.2.2 A CSP who authorises a person to Issue or Recover a Number on its behalf must do so in writing, and provide a copy to that person.
- 6.2.3 The CSP must ensure that the written authorisation to Issue and Recover Numbers:
- (a) identifies the person who is authorised;
  - (b) states when:
    - (i) it comes into effect; and
    - (ii) the circumstances in which it ceases to have effect.
- 6.2.4 A CSP that does not hold a number, or is not authorised to either Issue or Recover a Number on behalf of the CSP that holds the Number, must not purport to Issue or Recover the Number.

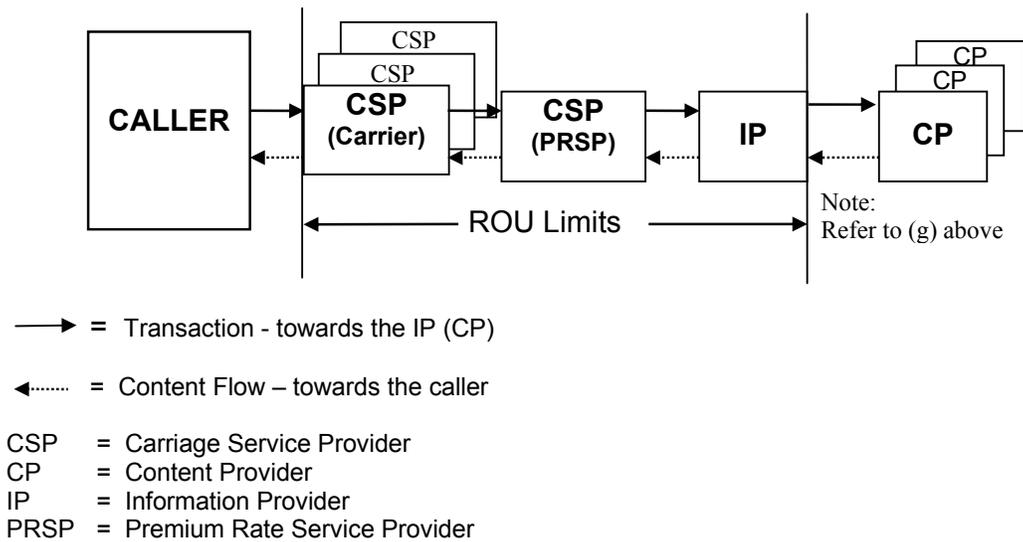


FIGURE 1

### General model of the Premium Rate Service

NOTE: Figure 1 above provides a general model of the PRS that identifies all parties that could be involved in the provision and use of the service. Several CSPs (ie Carriers and PRSPs) use Numbers to provision the PRS and they manage those Numbers in their equipment and systems. PRSPs may Issue Numbers to IPs.

The model is "general" because it includes the PRSP, IP and the CP as distinct entities. Combined entities may exist in typical industry cases; (b) and (c) below refer and simplified diagrams for industry scenarios are provided in Appendix A.

NOTE:

- (a) A CSP may also be a PRSP.
- (b) A PRSP may also be an IP.
- (c) An IP may also be a CP.
- (d) A CP cannot have ROU of a Number and would have to become an IP. The "ROU limits" are identified as being with the Carrier, PRSP or IP.
- (e) The direction of Content flow is towards the calling party.
- (f) Content flow may commence beyond the IP, by contractual arrangement between the IP and CP.
- (g) The model assumes that calls are answered due to arrangements provided for by the IP.

NOTE: In some cases the transaction may not extend back to the CP.

The revenue arising from call charges benefits the Carrier, CSP, PRSP, IP and CP in accordance with their commercial arrangements.

## **7 PRSP OBLIGATIONS FOR IDENTIFICATION OF THE ROU HOLDER**

- 7.1 A PRSP must not supply a PRS in relation to a Number unless that Number has been Issued.

*NOTE: A PRSP may Issue a Number to itself.*

- 7.2 A PRSP must not do anything that is inconsistent with the right under the Numbering Plan, of a person who has been Issued a Number to enjoy the beneficial use of that Number.

*NOTE: The ROU to the Number are created when the Number is Issued. From that time a Number can only be taken away from the ROU Holder if the Numbering Plan allows this to happen.*

- 7.3 A PRSP must Issue a Number by means of a ROU Record.
- 7.4 A PRSP must retain an original of the ROU Record, and provide either an original or a copy of the ROU Record to the other party nominated in that ROU Record.
- 7.5 If a PRSP Issues a Number to itself it must complete a ROU Record and, given the absence of a second party nominated in that ROU Record, the PRSP must strike out the fields which are not applicable.

## 8 ROU HOLDER'S RIGHTS AND OBLIGATIONS

*NOTE: The ROU Holder may enjoy the beneficial use of the Number(s) freely, and without hindrance subject to their compliance with this Code, the Contract, applicable legislation, and applicable regulations.*

*Financial settlements between an ROU Holder and CSPs/PRSPs involved in providing the PRS are a commercial matter and do not affect the ROU Holder's rights in respect of the Number.*

8.1 The ROU Holder may, in writing, request a PRSP to Recover the Number and Issue that Number to another person who intends to become the ROU Holder.

8.2 An ROU Holder may, in writing, request the PRSP to Recover their Number and discontinue the PRS.

*NOTE: If this occurs outside the terms of the Contract the ROU Holder may incur a charge in accordance with the contract terms.*

8.3 A ROU Holder will lose ROU and the Number if the ACA directs the Number to be recovered.

8.4 Subject to agreement by a gaining PRSP, the ROU Holder may Move the Number to that PRSP for continuation of the PRS.

*NOTE: If this occurs outside the terms of the Contract the ROU Holder may incur a charge in accordance with the contract terms.*

*NOTE: PRSPs cannot Move Numbers from one Carrier network to another.*

*NOTE: Prior to the implementation of number portability for PRS Numbers, a Number related to one Carrier cannot be Moved to another Carrier. It is envisaged that if number portability becomes available for PRS Numbers, this Code will be reviewed to include processes for moving Numbers between Carriers.*

## 9 THE ROU RECORD

*NOTE: It is the intent of this Code that parties involved in the provision of PRSs are made aware of ROU of Numbers.*

*The purpose of the ROU Record is to ensure that, for each Number Issued the ROU Holder is identified in a written document with the PRSP and that the IP is made aware about ROU.*

*The ROU Record is contained in Appendix B and may be a separate document or inserted in the Contract.*

- 9.1 A ROU Record must be in writing, signed by or on behalf of both parties, and in the form at Appendix B.

*NOTE: The form at Appendix B:*

- (a) specifies the Number to which the ROU Record applies; and*
- (b) identifies the parties; and*
- (c) clearly and unambiguously records whether it is the IP or PRSP to whom the Number has been Issued; and*
- (d) specifies the date on which the Number is Issued; and*
- (e) must be executed and dated by the PRSP and the IP; and*
- (f) if executed by a corporation, must be executed by a person having the authority to do so.*

- 9.2 A PRSP must keep a copy of each executed ROU Record until the Number to which it applies is Recovered.

## 10 THE RECOVERY RECORD

- 10.1 A PRSP must Recover a Number from a ROU Holder by means of the Recovery Record.
- 10.2 A Recovery Record must be in writing, in the form at Appendix C and, subject to Section 12, signed by or on behalf of both parties.

*NOTE: The minimum requirements of the Recovery Record (Appendix C) are that it:*

- (a) specifies the Number to which the Recovery Record applies;*
- (b) identifies the parties;*
- (c) clearly and unambiguously records that the Number has been Recovered;*
- (d) clearly identifies if the Recovery is conditional on (re)Issue of the Number to a person nominated by the ROU Holder agreeing to the Recovery of the Number;*
- (e) clearly identifies if the Number had to be Recovered by the PRSP in accordance with Section 12 in the absence of the ROU Holder;*
- (f) contains an acknowledgment that the ROU Holder loses ROU to the Number;*
- (g) specifies the date on which the Number is Recovered and the ROU are lost;*
- (h) must be executed and dated by the PRSP and the ROU Holder; and*
- (i) if executed by a corporation, must be executed by a person having the authority to do so.*

- 10.3 A PRSP must:
- (a) keep a copy of each executed Recovery Record and any notices given for clauses 12.1.1 and 12.3; and
  - (b) when the PRSP gives an original or copy of the ROU Record for the Number in accordance with clause 7.4 to the person to whom the ROU are to be changed, also give that person a copy of the Recovery Record in respect of the Number and any notices given for clauses 12.1.1 and 12.3; and
  - (c) if requested at any other time, give a copy of a Recovery Record to the other person that executed it, or to the person to whom the ROU are changed.

## 11 CHANGE OF ROU HOLDER

*NOTE: A current ROU Holder and another person (the proposed new ROU Holder) may agree that they want to Move the ROU of a Number from one to the other.*

*To Move a Number from a ROU Holder to another person under the Numbering Plan, it must be first Recovered by a person that has the authority to Recover it, and then Issued to the new ROU Holder.*

*A PRSP is not required to provide a PRS to a person with whom it does not want to do business.*

- 11.1 The process for changing ROU Holder is as follows:
- (a) the PRSP agrees to Issue the Number Recovered from the current ROU Holder to the proposed new ROU Holder;
  - (b) the PRSP Recovers the Number from current ROU Holder ensuring that the Recovery Record clearly indicates that the Recovery is conditional on the Number being Issued to the proposed new ROU Holder; and
  - (c) the PRSP Issues the Number to the proposed new ROU Holder in accordance with clauses 7.3 and 7.4 of this Code.
- 11.2 If a Recovery Record is conditional on the Issue of a Number to another person, the PRSP must not Recover the Number if it has not agreed under clause 11.1 (a) to the provision of a PRS in relation to that Number, to the proposed new ROU Holder.

*NOTE: In this situation the current ROU Holder would have to Move their PRS and the associated Number to another PRSP that would agree to provide a PRS to the proposed new ROU Holder and change the ROU of the Number.*

## 12 SERVICE CANCELLATION AND RECOVERY OF NUMBERS

12.1 This Section applies if a PRS is to be cancelled by the PRSP other than at the request of the ROU Holder.

12.1.1 A PRSP must give a ROU Holder at least 30 Business Days written notice of its intention to cease providing a PRS in relation to a Number, unless the ROU Holder agrees to a shorter notice period.

12.1.2 A notice given under clause 12.1.1 must contain advice that if the Number is not Moved to another PRSP, the service will be terminated and the current PRSP may Recover the Number.

*NOTE: The ROU Holder may then seek another PRSP to provide a PRS on the same Number on the same Carrier's network, prior to expiry of the notice.*

*NOTE: The process for moving a Number from one PRSP to another is set out in Section 15.*

12.2 If the ROU Holder agrees with the notice given under clause 12.1.1 and with the Recovery of the Number before or at the expiry of the notice period, the PRSP may recover the Number by means of a completed Part A of the Recovery Record. Refer to the form at Appendix C.

12.3 If a MAF is not received, and the PRSP must confirm this with the Carrier in writing, then, the PRSP may only Recover the Number from the ROU Holder at the expiry of the notice period, by completing Part B of the Recovery Record (refer to the form at Appendix C) including the section which confirms that:

- (a) the company has provided 30 days notice to the ROU Holder with no response;
- (b) a MAF has not been received; and
- (c) the PRSP is Recovering the Number.

12.4 If the PRSP Recovers the Number in accordance with clause 12.3, then the PRSP must within five Business Days send a copy of the completed Recovery Record to the last known address of the ROU Holder.

12.5 To the completed Recovery Record sent under clause 12.4, the PRSP must append a copy of the notice sent under clauses 12.1.1 and a copy of the correspondence with the Carrier under clause 12.3.

### 13 QUARANTINE OF NUMBERS

*NOTE: Quarantine of Numbers is dealt with under the Numbering Plan*

### 14 LAPSE OF RIGHTS OF USE OF NUMBERS

*NOTE: The ROU of the Number expire when it is Recovered.*

### 15 MOVING A PRS WITH THE NUMBER BETWEEN PRSPS

*NOTE: This section describes how a ROU Holder may Move a Number to a gaining PRSP.*

*Only ROU Holders may initiate a Move of a Number.*

*The process described below is intended to ensure that all parties cooperate to facilitate the Move of a Number from the ROU Holder's current PRSP to the gaining PRSP with minimal service interruption.*

- 15.1 A gaining PRSP must not initiate the Move of a Number unless it has a Movement Advice Form (MAF) completed by the ROU Holder for the Number. A MAF is the form at Appendix D.

*NOTE: The minimum information requirements for the MAF are that it:*

- (a) specifies the Number to be Moved;*
- (b) includes a copy of a ROU Record between the ROU Holder and the current PRSP, or an affirmation by the ROU Holder that they are the ROU Holder and are authorised to request the Move of the Number;*
- (c) specifies name and signature of the gaining PRSP (and ABN if any);*
- (d) specifies the name of the current PRSP;*
- (e) specifies the ROU Holder's name, or company name and name of authorised representative (and ABN if any);*
- (f) specifies the proposed date of effect of the Move; and*
- (g) includes the ROU Holder's signature and the date.*

- 15.2 The gaining PRSP must complete the MAF and send:

- (a) the MAF to the Carrier at least 20 Business Days before the proposed date of effect; and*
- (b) a copy of the MAF to the current PRSP at the same time by the same means as the MAF sent to the Carrier.*

*NOTE: PRSPs cannot Move Numbers from one Carrier network to another.*

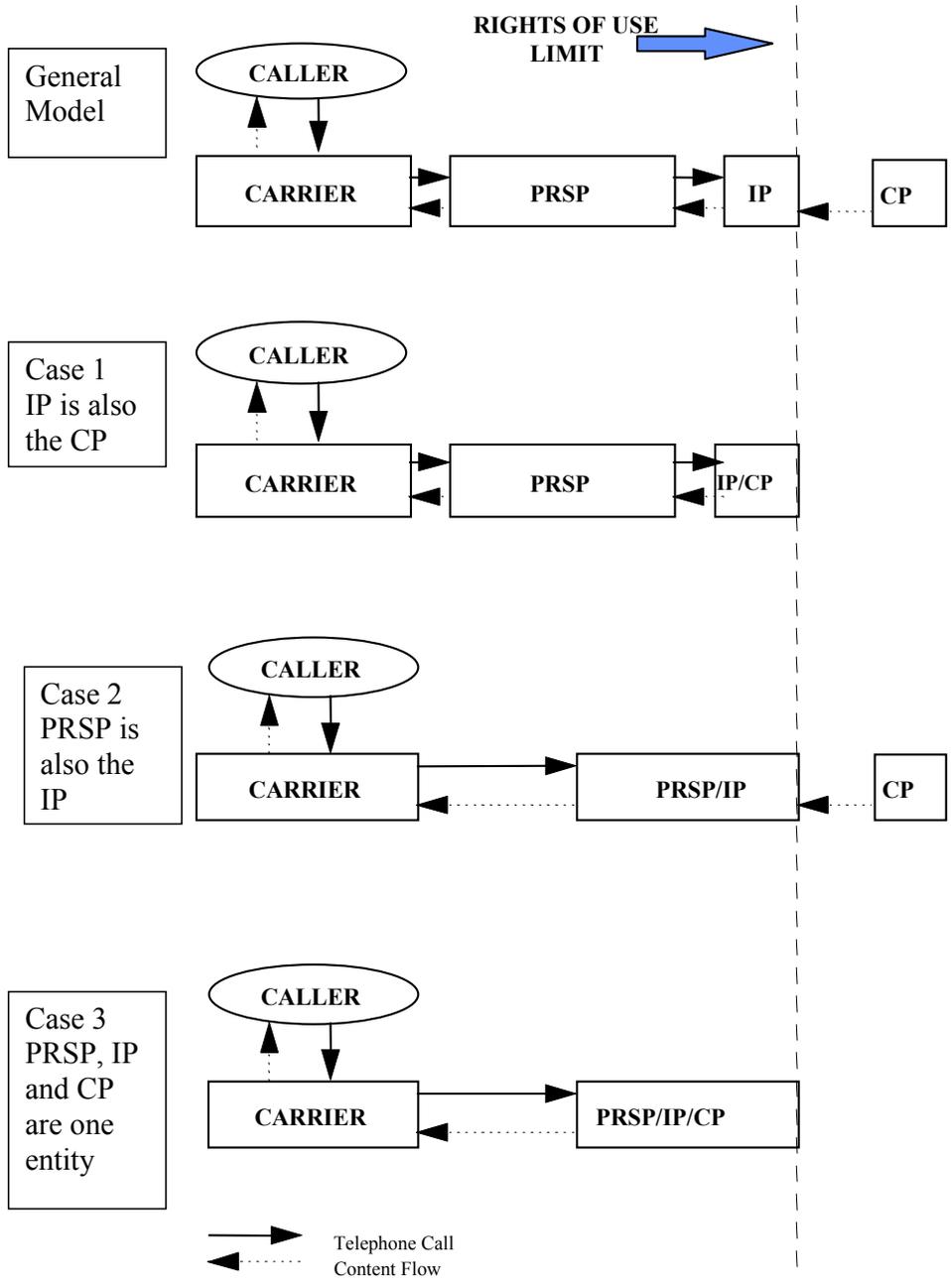
*NOTE: Prior to the implementation of number portability for PRS Numbers, a Number related to one Carrier cannot be Moved to another Carrier. It is envisaged that if number portability becomes available for PRS Numbers this Code will be reviewed to include processes for moving Numbers between Carriers.*

- 15.3 The Carrier must provide a copy of the MAF to the current PRSP within two Business Days of receipt of the MAF from the gaining PRSP.

- 15.4 A Carrier must treat a MAF as being confirmed unless the current PRSP rejects the MAF within five Business Days of receiving a copy.
- 15.5 The current PRSP must only reject the MAF under clause 15.2 if the current PRSP can substantiate the rejection by producing written evidence that another person is the ROU Holder.
- 15.6 For clause 15.5, documentary evidence may include:
- (a) a Recovery Record; or
  - (b) a more recent ROU Record; and/or
  - (c) evidence of termination of a service and Recovery of a Number.
- 15.7 If the current PRSP has rejected the MAF in accordance with clause 15.5 the Carrier must:
- (a) advise the gaining PRSP within two Business Days; and
  - (b) not Move the Number to the gaining PRSP on the date of effect.
- 15.8 If the MAF is confirmed, the Carrier must do all things necessary to give effect to the MAF.

*NOTE: If the PRS Content provided on the Number changes, coincidentally with its Move to a gaining PRSP, the gaining PRSP may be required to notify the Carrier, under Carrier-PRSP contractual arrangements (if any) in regard to changes to the PRS.*

# APPENDIX A INDUSTRY SCENARIOS (list is not exhaustive)



**APPENDIX B  
ROU RECORD PROFORMA**

# **RIGHTS OF USE RECORD**

**For the Issue & Rights of Use of a Premium Rate Service Number  
The Number is Issued by the Premium Rate Service Provider identified  
below.**

NUMBER \_\_\_\_\_

I \_\_\_\_\_ agree to **HAVE** Rights of Use and have  
(State Name and/or Company (if applicable) to whom the Number is Issued)  
been Issued with the above Number on  
\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_  
(Date)

I \_\_\_\_\_ acknowledge that I do **NOT HAVE**  
(State Name and/or Company (if applicable) of the other party)  
Rights of Use and have **NOT** been Issued with the above Number.

\_\_\_\_\_  
(Print name of signatory for Information Provider)

\_\_\_\_\_  
(Print name of signatory for Premium Rate Service Provider)

\_\_\_\_\_  
(Signature for Information Provider)

\_\_\_\_\_  
(Signature for Premium Rate Service Provider)

\_\_\_\_\_  
(Company Name of Information Provider (if applicable))

\_\_\_\_\_  
(Company name of Premium Rate Service Provider)

\_\_\_\_\_  
(ABN of Information Provider)

\_\_\_\_\_  
(ABN of Premium Rate Service Provider)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Date)

**APPENDIX C  
RECORD OF RECOVERY OF A NUMBER PROFORMA**

**RECORD OF RECOVERY OF A NUMBER**

For the Recovery of a Premium Rate Service Number.

The Number is recovered by the Premium Rate Service Provider identified below.

NUMBER \_\_\_\_\_

**PART A (Complete this Part if the Number is being Recovered with the agreement of the ROU Holder)**

I \_\_\_\_\_ being the Rights of Use Holder,  
(State Name and/or Company)

**agree to the Recovery of the above Number** and to the loss of my Rights of Use to the Number, and to this document being made available to a new ROU Holder;

And; (Strike out if not applicable)

The Recovery of the above Number is conditional on it being Issued to

\_\_\_\_\_  
(State Name and/or Company (if applicable))

Agreed on \_\_\_\_/\_\_\_\_/\_\_\_\_ (Date)

**PART B (Complete this Part if the Number is being Recovered and the ROU Holder does not respond as specified in (i) below)**

(Tick the box)

I the undersigned Premium Rate Service Provider affirm that requirements (i), (ii) and (iii) below have been met and that I have Recovered the Number.

(i) The Rights of Use Holder was given 30 days notice of Service termination and Number Recovery; and

(ii) No Movement Advice form was received from the Rights of Use Holder within the notice period; and

(iii) The notice period has expired.

\_\_\_\_\_  
(Print name of the Rights of Use Holder)

\_\_\_\_\_  
(Print name of signatory for Premium Rate Service Provider)

\_\_\_\_\_  
(Signature of Rights Of Use Holder)

\_\_\_\_\_  
(Signature of Premium Rate Service Provider)

(Company Name of Rights of Use Holder (if applicable)) _____	(Name of Premium Rate Service Provider) _____
(ABN of Rights of Use Holder (if applicable)) _____/_____/_____ (Date)	(ABN of Premium Rate Service Provider) _____/_____/_____ (Date)

**APPENDIX D  
MOVEMENT ADVICE FORM**

# MOVEMENT ADVICE FORM

**To Move a Premium Rate Service Number between Premium Rate Service Providers**

To \_\_\_\_\_  
(Insert Carrier Name)

Number \_\_\_\_\_

To be Moved to \_\_\_\_\_  
(New Premium Rate Service Provider)

Date of effect \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_

**Declaration – I** \_\_\_\_\_

(State Name and/or Company (if applicable) of Rights Of Use Holder)

declare that **I am the Rights of Use Holder** and that I am authorised to request Movement of the Number

(The Rights of Use Record should be attached if available)

The current Premium Rate Service Provider is:

\_\_\_\_\_  
(State name and/or Company)

\_\_\_\_\_  
(Print name of signatory for New Premium Rate Service Provider)

\_\_\_\_\_  
(Print name of Rights of Use Holder)

\_\_\_\_\_  
(Signature for New Premium Rate Service Provider)

\_\_\_\_\_  
(Signature of Rights of Use Holder)

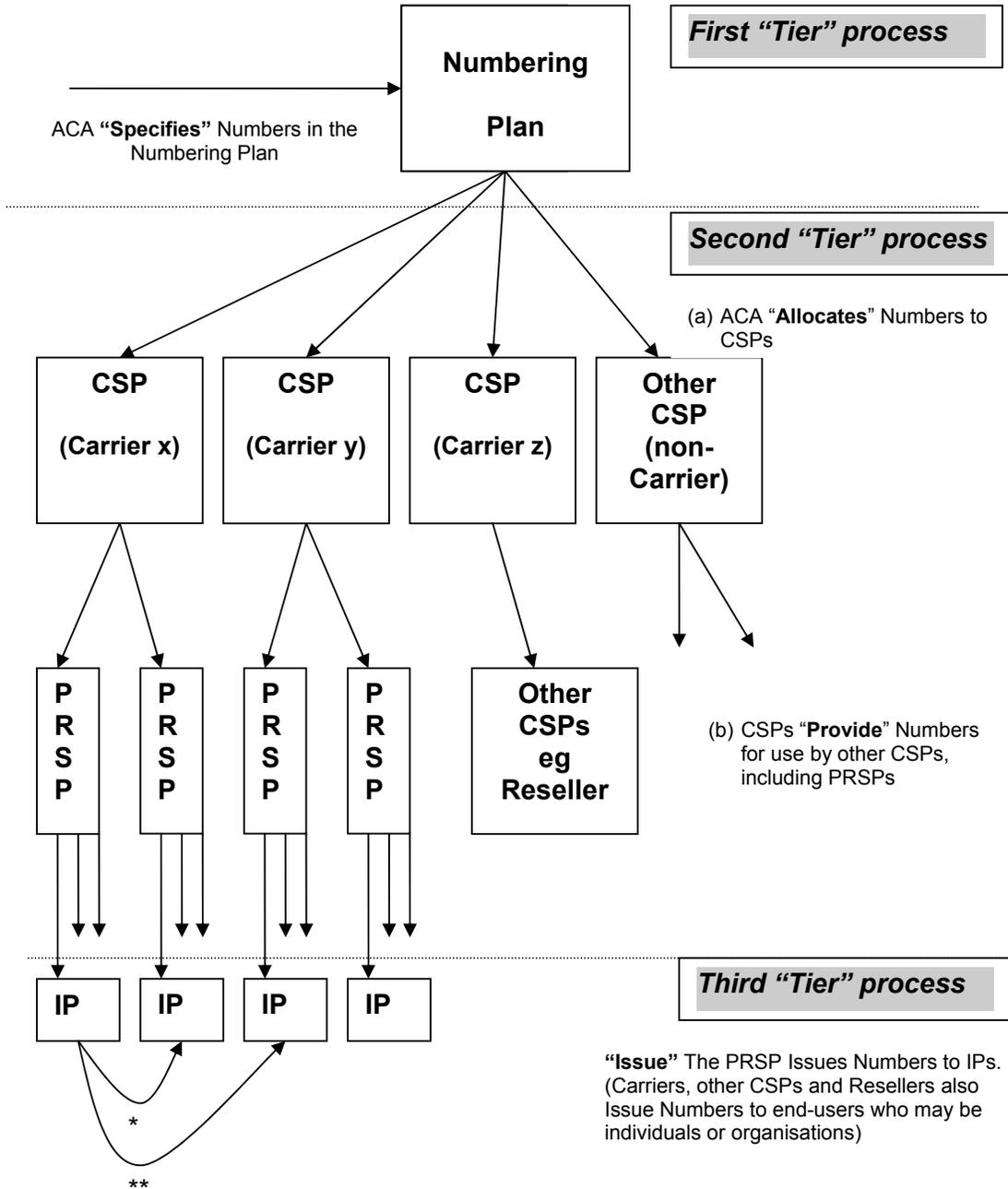
\_\_\_\_\_  
(ABN of New Premium Rate Service Provider)

\_\_\_\_\_  
(ABN of Rights of Use Holder)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Date)

# APPENDIX E NUMBERING PROCESS



\* **"Move"** An IP ROU Holder may Move Numbers between PRSPs on the same Carrier's network.

\*\* **number portability** is not currently available for Premium Rate Service Numbers and therefore not included in this version of the Code.

The policy objective of the greatest practicable use of industry self-regulation without imposing undue financial and administrative burdens on industry is central to the regulatory scheme of the *Telecommunications Act 1997*.

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