

19 December 2013

The Hon Malcolm Turnbull MP  
Minister for Communications  
Parliament House, Canberra ACT 2600

By email: [deregulation@communications.gov.au](mailto:deregulation@communications.gov.au)

Dear Mr Turnbull,

Thank you for the invitation to provide advice in relation to redundant regulation, reducing regulation and determining the cost of regulation to industry.

AMTA has provided an initial submission to [deregulation@communications.gov.au](mailto:deregulation@communications.gov.au) and we also look forward to providing more detailed information and analysis of costs as well as identifying further areas for regulatory review and reform.

AMTA notes the co-operation of industry members in providing input for AMTA's submission as well as the submission made by Communications Alliance. We would therefore like to note our endorsement of the Communications Alliance submission.

AMTA looks forward to continuing our participation in the Government's process of identifying and setting priorities for the review of regulation that is either redundant or ready for reform.

Yours sincerely,



Chris Althaus

**AMTA Chief Executive**



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**Australian Mobile  
Telecommunications  
Association**

**AMTA Submission to Department of Communications**

**December 2013**

**Deregulation: Initiatives in the Communications Sector**

## 1. Introduction

The Australian Mobile Telecommunications Association (AMTA) is the peak industry body representing Australia's mobile telecommunications industry. Its mission is to promote an environmentally, socially and economically responsible, successful and sustainable mobile telecommunications industry in Australia, with members including the mobile Carriage Service Providers (CSPs), handset manufacturers, network equipment suppliers, retail outlets and other suppliers to the industry. For more details about AMTA, see <http://www.amta.org.au>.

AMTA welcomes the Government's initiative and willingness to consider deregulation and reducing the regulatory burden in the communications sector. AMTA understands that this will be an ongoing process and is willing to continue to engage and provide further and more detailed information, particularly in relation to cost elements, as the Government progresses its consideration of deregulation opportunities.

Earlier this year, AMTA released its '*Mobile Policy Principles*' that provide a useful high level guide to any review of the existing legislative and regulatory framework for the mobile telecommunications industry.

### **Principle 1**

A policy framework that recognises and promotes continued mobile industry investment in latest generation mobile technologies and infrastructure will maximise the productivity and connectivity benefits to Australian consumers, businesses, organisations and governments.

### **Principle 2**

Regulation must be minimised and red tape reduced to ensure the productivity and connectivity benefits of mobile broadband are realised.

### **Principle 3**

It is essential that the Australian Government develops a clearly defined spectrum policy that includes long-term arrangements to meet future spectrum requirements for mobile data and broadband services.

Against this background AMTA is seeking to identify areas for short-term regulatory reform and red-tape reduction as well as long-term regulatory and microeconomic reform suggestions.

The following tables detail areas that AMTA believes provide an opportunity for Government to make significant savings that will have an immediate impact on productivity and efficiency for the mobile telecommunications industry and could be put into effect in the short-term.

AMTA also believes that a comprehensive review of the *Radiocommunications Act 1992* (Radcomms Act) would deliver significant micro-economic reforms with lasting productivity and efficiency benefits for Australia in the longer term.

AMTA also notes that Communications Alliance will be making a submission and that its submission has strong support from AMTA's members.

## 2.1 Prepaid Identity Checks

Description of relevant regulation	<b>Telecommunications (Service Provider – Identity Checks for Prepaid Mobile Carriage Services) Determination 2013</b>
Policy underlying the regulation	The Determination mandates identity checks for prepaid mobile services in order to provide information to assist law enforcement and national security agencies (LENSAs)
Reasons the regulation is no longer needed	<p>The Prepaid Determination 2013 places an obligation on Carriage Service Providers (CSPs) to verify customer evidence of identity documents that imposes an unreasonable regulatory burden and cost on CSPs for the following reasons:</p> <ul style="list-style-type: none"> <li>• It duplicates existing requirements to collect customer name and address for the IPND (NB the existing IPND obligations meet the needs of Triple Zero operators).</li> <li>• The requirements make it unduly complex to provide services to customers affected by emergencies and natural disasters.</li> <li>• There is no evidence that the regulation reduces crime or identity theft, in fact, the regulation encourages identity theft as stolen ID documents can easily be used.</li> <li>• The GSMA’s recently released White Paper on The Mandatory Registration of Prepaid SIM Card Users<sup>1</sup> that surveyed global practices found that “<i>to date there is no evidence that mandatory registration leads to a reduction in crime</i>”.</li> <li>• There is no business requirement to verify a prepaid customer’s ID. The sole beneficiaries of this regulatory requirement are law enforcement and national security agencies (LENSAs) who do not bear any of the costs associated with the regulation (despite the recommendation from the Productivity Commission that cost sharing arrangements should be reviewed). LENSAs have not provided any quantitative evidence of the benefit of the regulation.</li> <li>• Costs to industry run into millions with regard to capex to implement the new online verification system and the transaction costs associated with online verification are high in proportion to the average revenue generated by prepaid mobile services.</li> </ul>

<sup>1</sup> GSMA White Paper 2013, [The Mandatory Registration of Prepaid SIM Card Users](#)

	<ul style="list-style-type: none"> <li>• The regulatory requirements are fundamentally flawed and easily circumvented by those with criminal intent because:             <ul style="list-style-type: none"> <li>○ Prepaid mobile services are easily transferable between end-users;</li> <li>○ Stolen identity information can be used to verify identity (which actually provides an incentive for identity theft); and</li> <li>○ Prepaid mobile services can be imported from overseas.</li> </ul> </li> </ul>
<p>Proposal to remove the regulation</p>	<p>Eliminate the requirement to <i>validate</i> customer evidence of identity documents for mobile prepaid services. Keep in place the requirement to collect name and address of users of prepaid mobile services for IPND purposes (i.e. to satisfy requirements of Triple Zero).</p> <p>The GSMA’s White Paper states that “<i>case studies in this paper show that mobile users will register willingly to access mobile services they consider valuable. Mobile operators and governments are therefore incentivised to offer such services and encourage consumers to register voluntarily</i>”.<sup>2</sup></p> <p>The White Paper also notes that mandatory prepaid ID registration is not a requirement in Canada, the UK, USA or Mexico.</p> <p>If the requirement must stay in place, industry strongly recommends that the Productivity Commission’s recommendations are implemented and LENSAs bear the full cost of the regulation.</p> <p>We also seek amendments to the provision of services during an emergency to lessen the record keeping burden on mobile service providers attempting to help people.</p> <p>The regulation as drafted places more reporting and record keeping burden on a service provider that provides services in emergency situations or during natural disasters than is required for a customer ordinarily purchasing a service.</p>
<p>Impact on industry</p>	<p>The estimated savings to industry (based on 4 million activations per annum and 5 CSPs using the DVS) would be:</p> <p>IT build savings: \$10 million plus</p> <p>DVS Setup costs: \$275,000</p> <p>Annual DVS costs: \$2M</p>

<sup>2</sup> GSMA White Paper 2013, [The Mandatory Registration of Prepaid SIM Card Users](#)

	<p>Annual IT solution costs (hardware, software, maintenance):\$1M</p> <p>Lost opportunity (productivity) savings: \$12M</p> <p>Compliance costs: \$500,000</p> <p>ACMA costs: 2 staff (for compliance monitoring)</p>
<p>Impact on consumers/individuals</p>	<p>Prepaid mobile services would be more accessible for consumers, particularly vulnerable members of the community e.g. children, teenagers, the homeless, Indigenous Australians living in remote communities, women and children fleeing situations of domestic violence – these are all individuals who may have limited identity documentation (e.g. may not have a verifiable address) and a higher need for personal privacy.</p> <p>It will also allow industry to quickly and flexibly provide emergency assistance services to Australians affected by floods, bushfires and other natural disasters/emergencies.</p> <p>And for the broader community it would remove the burden of having to go through an identity verification process to simply activate a \$2 prepaid mobile phone service.</p>

## 2.2 Spectrum Management, Allocation and Licensing

Description of relevant regulation	<b>Radiocommunications Act 1992 (Radcomms Act)</b>
Policy underlying the regulation	Management, allocation and licensing of radiocommunications spectrum.
Reasons the regulation is no longer needed	<p>Spectrum is critical infrastructure for mobile services and a key driver of productivity. However, the complexity associated with spectrum allocation and spectrum licence reissue processes has resulted in inefficiencies and a costly burden on industry.</p> <p>Convergence is also placing pressure on the regulatory framework and AMTA believes that a review and reform of the Act and its regulatory framework would result in significant micro-economic reform with lasting economic productivity benefits by accommodating future technological developments, meeting strong consumer demand and reducing costs for industry.</p>
Proposal to remove the regulation	<p>AMTA supports a comprehensive review of the Act and the supporting regulatory framework with the objective of achieving micro-economic reform outcomes.</p> <p>AMTA believes the review of the Act should consider:</p> <ul style="list-style-type: none"> <li>• Establishing a common approach to the planning, allocation and management of broadcasting and non-broadcasting spectrum that provides for market-based allocation and the extension of secondary trading i.e. a platform-neutral approach.</li> <li>• Development of a spectrum policy roadmap to outline a clear policy approach to making spectrum available for IMT in a timely manner, under a clear and simplified regulatory framework, at reasonable price that will not deter investment.</li> </ul> <p>While such a comprehensive review will take time and have a long-term perspective, there are also several short-term actions that AMTA suggests:</p> <ul style="list-style-type: none"> <li>• Streamline and simplify decision-making processes for spectrum allocation and licence re-issue to provide certainty for industry.</li> <li>• Review price-setting mechanisms for spectrum access charges – including how prices are set at auction, licence re-issue, apparatus licence fees and how spectrum is taxed.</li> </ul>

	<ul style="list-style-type: none"><li>• Establish flexible consultation processes and standardised timeframes for Regulator responses. (e.g. regional 1800 MHz and 900 MHz allocation processes have been open-ended and do not provide the requisite certainty for industry to make investment decisions)</li></ul>
Impact on industry	Promote continued investment in mobile network infrastructure, particularly spectrum by providing the requisite certainty for industry.
Impact on consumers/individuals	Enable the productivity benefits of mobile broadband to be realised across Australia's economy. Meet increasing consumer demand and expectations in relation to mobile services.

**Additional note:**

AMTA recognises the extensive engagement and contribution of the ACMA in terms of the planning and management of Spectrum. The ACMA's expertise will be well placed to contribute significantly to any reform of the RadComms Act and ultimately the development of an Australian Government spectrum policy (road-map).



## 2.3 Premium SMS Services

Description of relevant regulation	<p><b>S.12(4) of the Telecommunications Service Provider (Mobile Premium Services) Determination 2010 (No.1)</b> [made in accordance with paragraph 3.12 (1) (c) of the Telecommunications Regulations 2001; and section 4 of the Premium Service Determination 2004 (No.1)]</p> <p>The Regulation’s purpose is to ensure customers of mobile operators are aware of how to bar their services or set spend limits for receiving premium SMS and MMS services.</p>
Policy underlying the regulation	<p>The policy was implemented at a time of high levels of complaints about billing and available choices for opting-out for premium SMS services.</p> <p>Since that time, as a result of industry led initiatives as well as regulation, complaint numbers have significantly reduced with the TIO reporting a 19% decline in complaints from 2008-09 to 2011-12. Complaints for 2011-12 were 2 587 compared to over 13 500 in 2008-09.<sup>3</sup></p> <p>As customers switch to using mobile apps Mobile Premium Services (MPS) are rapidly declining in use and consumers who do choose to use MPS have easy access to either opt out or set spend limits.</p> <p>Customers can access assistance and information from: <a href="http://www.19sms.com.au">www.19sms.com.au</a> and carrier help pages <a href="#">Optus</a> , <a href="#">Vodafone</a>, <a href="#">Telstra</a> or <a href="http://mobiletips.org.au">mobiletips.org.au</a></p>
Reasons the regulation is no longer needed	<p>The majority of mobile pre and post-paid customers no longer use premium SMS services. This rapid change in consumer behaviour has also meant a dramatic decline in complaints about premium SMS services.</p> <p>The following requirements are now irrelevant and potentially irritating to consumers:</p> <ul style="list-style-type: none"> <li>• advise all customers every six months that they can bar premium SMS or set spend limits; or</li> <li>• include information on customer’s bills.</li> </ul>
Proposal to remove the regulation	<p>Amend paragraph 3.12 (1) (c) of the Telecommunications Regulations, 2001 and section 4 of the Premium Service Determination 2004 (No. 1) to direct the ACMA to delete S.12(4) and (5) of the Telecommunications Service Provider (Mobile Premium Services) Determination 2010 (No.1).</p>

<sup>3</sup> <http://ar2012.tio.com.au/statistics/dashboard>

Impact on industry	Repealing this requirement will remove an annual cost in excess of \$ 1 million <sup>4</sup> that mobile operators incur to send an SMS to its mobile customer base and provide messages in customer bills to advise customers how to bar or set spend limits for premium SMS.
Impact on consumers/individuals	Consumers already face an overwhelming array of information and choices. Removing the requirement to provide information which is irrelevant, not targeted and increasingly unnecessary to most customers will alleviate this burden.

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<sup>4</sup> Estimated costs for Optus, Telstra and Vodafone amount to between \$1 million and \$1.1 million – this estimate does not include the costs of other smaller mobile service providers and also does not take into account the opportunity costs in relation to space on the customer bills for other notifications.

## 2.4 Mobile Network Infrastructure Deployment

Description of relevant regulation	<b>Telecommunications Act 1997, Schedule 3 and Low Impact Facilities Determination</b>
Policy underlying the regulation	Telecommunications Act, Schedule 3 and Low Impact Facilities Determination (LIFD), provide overarching planning and land/building access regulations regarding the deployment of mobile telecommunications infrastructure
Reasons the regulation is no longer needed	The regulation is still required but could be reviewed and improved to better facilitate the provision of mobile network infrastructure to meet the burgeoning demand for advanced mobile telecommunications services by the Australian public
Proposal to remove the regulation	Amend regulation to address: <ul style="list-style-type: none"> <li>• Airports – LIFD does not apply as airports come under federal planning law and therefore state and local planning law exemptions (as provided by LIFD) don't assist here.</li> <li>• Schedule 1 and Schedule 3 anomalies with respect to In Building Coverage Systems (IBC)</li> </ul>
Impact on industry	<ul style="list-style-type: none"> <li>• Non-uniform requirements for deployments at airports have resulted in significant costs over the last 10 years, in the form of administration costs, delays, opportunity and lost revenue costs (while CAPEX has already been committed).</li> <li>• In some international airports in Australia, 4G services are not currently available to some consumers due to onerous requirements imposed by airport operators making deployment not viable for infrastructure that could normally be deployed under the LIFD.</li> <li>• Anomalies in Schedules 1 and 3 regarding IBC result in uncertainty regarding the interaction of regulatory requirements and make the provision of IBC less viable for network operators.</li> </ul>

<p>Impact on consumers/individuals</p>	<p>Delays resulting from regulation mean that customers will not receive access to mobile services in a timely manner and the economic, social and productivity benefits of mobile technology will not be fully realised.</p> <p>This particularly affects businesses that may rely on IBC for their customers while conducting business at their premises, and is a clear concern for business and tourist travellers alike where 4G mobile services cannot be provided at major airport terminals.</p>
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Description of relevant regulation	<b>Telecommunication Code of Practice Notice Period for Schedule3 activities</b>
Policy underlying the regulation	Telecommunications Act
Reasons the regulation is no longer needed	Amendment required
Proposal to remove the regulation	Amend objection period to 10 days from receipt of Notice instead of the current 5 days prior to the commencement of the activity
Impact on industry	This will provide greater certainty of the forecast commencement of works and removes the risk of stranded resources upon receipt of an objection on the eve of commencement. Savings more than \$500,000 p.a. for industry
Impact on consumers/individuals	A reduction in re-mobilisation costs, reduction in applications with other authorities e.g. road closure permits. More timely delivery of enhanced mobile services

Description of relevant regulation	<b>Telecommunication Code of Practice</b>
Policy underlying the regulation	Telecommunications Act, Determination period by TIO for unresolved objections
Reasons the regulation is no longer needed	Amendment required. Currently there is no timeframe for the TIO to determine an unresolved objection for a Schedule 3 activity. Average timeframe now exceeds 9 months.
Proposal to remove the regulation	It is proposed that the Code require the TIO to make a determination within 6 weeks of an objection being referred to his office
Impact on industry	Reduced time for the deployment of new infrastructure
Impact on consumers/individuals	More timely delivery of enhanced mobile services

Description of relevant regulation	<b>Telecommunications (low Impact facilities) Determination</b>
Policy underlying the regulation	Telecommunications Act
Reasons the regulation is no longer needed	Amendment required
Proposal to remove the regulation	Clarity required that Heritage overlays in local planning schemes do not constitute a “register relating to Heritage conservation”. This will reduce the cost and delay in submission of Development Applications for Low Impact facilities in such areas where the property to be used has no heritage significance.
Impact on industry	Cost savings of \$1.0m p.a.
Impact on consumers/individuals	More timely delivery of enhanced mobile services

### 3. Conclusion

AMTA welcomes the opportunity to participate in the next stage of the Government's consultation process on deregulation initiatives in the communications sector, particularly with regard to the longer term reform agenda in relation to spectrum management, allocation and licensing.

Please contact Chris Althaus, AMTA Chief Executive ([Chris.Althaus@amta.org.au](mailto:Chris.Althaus@amta.org.au)) or Lisa Brown, Policy Manager ([Lisa.Brown@amta.org.au](mailto:Lisa.Brown@amta.org.au)) at 02 6239 6555 for further details about this submission.