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AMTA and Communications Alliance
Joint Submission

Australian Communications & Media Authority

Proposal to remake the mobile phone
booster prohibition declaration



About AMTA

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 network operators and service providers, handset manufacturers, network equipment suppliers, retail outlets and other suppliers to the industry. For more details about AMTA, see <http://www.amta.org.au>.

About Communications Alliance

Communications Alliance is the primary telecommunications industry body in Australia. Its membership is drawn from a wide cross-section of the communications industry, including carriers, carriage and internet service providers, content providers, equipment vendors, IT companies, consultants and business groups. Its vision is to provide a unified voice for the telecommunications industry and to lead it into the next generation of converging networks, technologies and services. The prime mission of Communications Alliance is to promote the growth of the Australian communications industry and the protection of consumer interests by fostering the highest standards of business ethics and behaviour through industry self-governance. For more details about Communications Alliance, see www.commsalliance.com.au.



Overview

Communications Alliance and AMTA (the Associations) welcome the opportunity to provide comments in response to the ACMA's consultation on the remaking of the *Telecommunications (Prohibition of Mobile Phone Boosters) Declaration 2011* (the Declaration).

Mobile phone boosters can cause significant interference to mobile phone networks and there is potential for such disruptions to interfere with access to the emergency call service by the community.

The Associations strongly support remaking the Declaration before it is due to sunset.

The Associations note that the Declaration is made under Section 450 of the *Telecommunications Act 1997* (the Telco Act) and we understand that this is probably due to historical reasons, rather than any underlying policy. We note that this means the instrument falls outside the existing framework of prohibition and exemption instruments¹ made under the auspices of the *Radiocommunications Act 1992* (the Radcomms Act) which has recently been subject to a reform process, with the *Radiocommunications Legislation Amendment (Reform and Modernisation) Act 2020* (the Modernisation Act) taking effect from mid-June 2021. While this has no substantial impact in terms of outcomes, we note that the sunseting of the Declaration does provide an opportunity to reconsider whether this instrument would fit more appropriately under the Radcomms Act framework of prohibitions and exemptions.

Another reason for re-making the Declaration under the Radcomms Act is that the Modernisation Act has new provisions for supply chain capture of equipment which is the subject of a permanent ban², and creating a permanent ban on mobile phone boosters would provide access to these provisions, although we acknowledge this is different to re-making the prohibition Declaration.

However, the Associations view is that re-making the instrument before the sunset deadline should be the priority. Consideration of where the instrument best fits in the broader regulatory framework should not come at the expense of ensuring there is continuous prohibition of mobile boosters.

The Associations also note that ACMA's proposed update to the Declaration seeks to ensure cellular mobile repeaters are not inadvertently captured under its scope, as cellular mobile repeaters are separately "*regulated by the ACMA under the Radcomms Act*"³. The Associations support this approach, as it avoids capturing cellular mobile repeaters (legal or illegal) under two

¹ For example, the Radiocommunications (Prohibition of PMTS Jamming Devices) Declaration 2011. <https://www.legislation.gov.au/Details/F2011L00346>

² Under section 175 of the Modernisation Act

³ Consultation paper, p.5, paragraph before Question 3.

separate instruments, which in turn risks overlapping and/or conflicting legal requirements. To better facilitate the exclusion of cellular mobile repeaters from the *booster* prohibition, the Associations also recommend the Explanatory Statement for the Declaration should be updated to explain in plain English how a booster, which only *amplifies* a signal received via physical contact with the mobile station, differs from a repeater, which is capable of *regenerating* and *retransmitting* a signal received wirelessly from a mobile station.

Responses to questions from the consultation paper

1. Are there any factors that may have an impact on the effective operation of the instrument?

The Associations strongly support re-making the Declaration, consistent with the framework of prohibitions and exemptions that exists under the Radcomms Act, in order to continue to protect mobile networks from any undue interference by mobile phone boosters. Specifically, we still see a need for mobile phone boosters to be prohibited devices in Australia.

2. Have these developments changed the potential risks caused by boosters? For example, are modern mobile networks any more or less susceptible to mobile phone boosters, or is the level of risk unchanged?

The Associations submit that the risk level is unchanged, despite changes in mobile technologies, and that the use of mobile phone boosters threatens the operation and performance of mobile phone networks, including 5G networks. As noted in the consultation paper, the worst-case scenario, is that the use of a mobile phone booster prevents or restricts access to the emergency call service. The Associations note the regulatory obligations on mobile Carriers in relation to calls to the emergency call service as well as the national emergency alert system. Further, we note that mobile phone boosters can potentially interfere with access to mobile services by customers who have every right to expect unimpeded access to the service they have paid for and that is provided to them by mobile network operators that have made a substantial investment in spectrum licences and network infrastructure in order to offer mobile services.

3. Is the proposed update to the definition of mobile phone boosters appropriate to ensure it does not capture cellular mobile repeaters? In particular, are there known technology developments in cellular mobile repeaters which may inadvertently cause them to be captured by the definition of a mobile phone booster? Is there an alternative definition of mobile phone booster we should consider?

The Associations are not aware of any technology developments in cellular mobile repeaters which may inadvertently cause them to be captured by the definition of a mobile phone booster.

The Associations note that this prohibition instrument is intended only to cover mobile phone boosters, and that it is not intended to prohibit cellular mobile repeaters (legal or illegal) as the latter are separately regulated by the ACMA under the Radcomms Act. To this end, the

Associations support the ACMA's proposal to clarify that cellular mobile repeaters (legal or illegal) are not captured under the Declaration. As noted in our introduction, the Associations recommend the Explanatory Statement should be updated with a plain English description of both a booster and a repeater to help clarify the technology differences between the two types of devices. A plain English description in the Explanatory Statement will help ensure the Declaration does not inadvertently capture cellular mobile repeaters.

The Associations note that the implementation of the Modernisation Act has implications for how cellular mobile repeaters are treated under the Equipment Rules. AMTA has recently provided a submission to the ACMA regarding these changes, particularly, how mobile cellular repeaters can be authorised for use under the Equipment Rules and our members have been in close consultation with the ACMA regarding how the Equipment Rules will work in relation to carrier authorised repeaters. While we do not see any issue with the definitions of either boosters or repeaters in the proposed redrafting of the Declaration, we do suggest that care should be taken to ensure that the remade Declaration is consistent with the new Equipment Rules provisions.

Contact:

For any questions in relation to this submission please contact Lisa Brown, Public Policy Manager, AMTA at lisa.brown@amta.org.au or (02) 8920 3555 or Mike Johns, Project Manager, Comms Alliance at m.johns@commsalliance.com.au.

Australian Mobile
Telecommunications Association

PO Box 115
Dickson ACT 2602

www.amta.org.au