Communications Alliance and AMTA Submission

February 2013

ACMA Consultation Paper:

International mobile roaming – proposed standard

Introduction

The Associations recognise that there are opportunities to improve the level of consumer awareness around international mobile roaming (IMR) arrangements, most notably pricing.

The issue of consumer awareness of IMR has been and continues to be addressed by industry through improvements in information provided to consumers, including as required under the newly revised Telecommunications Consumer Protections (TCP) Code.

The Associations believe that the TCP Code goes a long way towards achieving the outcomes that both the Minister and industry members would like to see.

The Associations understand that the industry standard is intended to address consumer awareness issues while a consumer is actually overseas, whereas the TCP Code provisions will apply to consumers within Australia. The Associations recommend that the standard's provisions mirror the TCP code provisions where applicable so that consumers will have a consistent experience and industry will be more able to efficiently implement compliance with both regulatory frameworks.

As stated in our previous submission to the ACMA, the Associations believe that the standard should:

- be workable and consumer friendly;
- avoid being overly prescriptive;
- be outcomes based and allow for flexibility in implementation;
- align with the Telecommunications Consumer Protections (TCP) Code;
- take into consideration the arrangements that exist between Australian mobile network providers and their overseas partners in order to provide international roaming services; as well as
- take into consideration arrangements between mobile network operators and resellers in Australia.

As submitted previously, the Association's members and their customers strongly prefer SMS as the primary means of sending information or alerts. SMS is an effective and low cost method of delivering key information to customers where and when they need it. The Associations, however, do not believe that the Standard should stipulate the exclusive use of SMS as providers may have other innovative ways to alert consumers, particularly as mobile technology advances.

While the Standard will understandably need to prescribe the form and content components of the alert messages, the standard should not prescribe how the message is delivered to the roaming customer. Refraining from prescribing how alerts will be delivered will ensure the standard is robust to endure technological and commercial changes.

The Associations believe that the draft standard contains an unnecessarily high level of prescription and submit that it would be preferable for the standard to focus more on desired outcomes and give mobile carriers and carriage service providers greater flexibility in how they meet those outcomes.

The Associations submit that greater flexibility in how the standard's requirements can be met will result in significantly lower costs of compliance for industry members. The Associations note that as the requirements set out in the draft standard will require significant levels of investment (potentially in the order of millions of dollars) in network, IT and billing system changes.

The more changes required to networks, IT and billing systems the greater the cost impact of the standard and the longer the timeframes for implementation. Making the standard more flexible could result in an implementation timeframe of12months as compared to a likely timeframe of at least 24 months based on the draft standard's requirements.

The Associations recommend that where possible the standard's requirements be aligned with the TCP Code requirements and also implementation timelines so that cost efficiencies can be realised by mobile service providers.

The Associations have addressed some of the operational, technical and cost issues regarding the draft standard below and also made some recommendations for an alternative approach to how the standard could best achieve the outcomes desired by consumers, regulators and the industry.

Operational Issues

Alignment with the TCP Code

Some of the proposed requirements in the draft standard do not align with the requirements of the TCP Code. As CSPs are making significant investments in IT and system changes in order to comply with the TCP Code, it would be prudent for the standard to align with the TCP Code where reasonable and appropriate to minimise the potential for inconsistent consumer experiences and the costs associated with multiple billing and IT systems. (Please see Attachment A for a comparison of TCP Code requirements and the draft standard)

For example, Clause 9 (2) requires a CSP to inform a customer of IMR spend management tools before entering into contract. There is no such requirement regarding general spend management tools in the TCP Code. Instead, the TCP Code requires a CSP to provide a comprehensive description of its spend management tools in a readily accessible position on its website.

Clause 9 (5)(b) requires usage notifications to all customers (as per the definition in the standard). Under the provisions of the TCP Code, usage notifications only apply to residential customers for Included Value Plans that commenced in market after 1st March 2012 and internet post-paid plans with an included data allowance (where the included value or data is not unlimited or shaped/throttled). Further, these TCP Code provisions take effect from 1 Sept 2013 for large suppliers and 1 Sept 2014 for others. The Associations suggest that notifications under the draft standard could be aligned with the implementation of notifications for residential customers under the TCP Code. This would allow smaller suppliers, in particular, to more efficiently roll-out system changes in order to comply and also allow for a more consistent customer experience.

The Associations note that the draft standard does not allow for customers to opt out of alerts, whereas the TCP Code does. However, our members believe that allowing customers the ability to opt out of alerts is important as some customers will potentially receive multiple alerts under the draft standard provisions and this will result in customer dissatisfaction for some. The Associations therefore recommend aligning the Standard with the TCP Code to provide the ability for customers to opt out of alerts as this will be highly desirable for some heavy or frequent users of roaming services.

Wholesale and Retail provider obligations

In response to question 3 in the consultation paper, the Associations believe that there are some impediments to CSP wholesalers of IMRs services sending a generic message to all consumers on its network:

- it may put a CSP in breach of the SPAM Act and the Associations request that the ACMA provide its legal advice on this question, and perhaps publish a guidance note on its interpretation of the SPAM Act if that would clarify matters; and
- the Associations believe that it is inappropriate to mandate that the wholesale provider interacts directly with customers of an MVNO. The unintended consequences of such a mandate could include damage to competition. An important principle of wholesale service is operational separation between the wholesale provider and the MVNO and any changes to this could require contracts to be rewritten.

Further, the Associations point out that there may be more than two providers in the "chain" between the mobile network provider and the customer and that it is important that the provider with the immediate relationship to the customer be able to have control over any communications with that customer.

The Associations believe that the standard should result in a consistent customer experience across service providers. Therefore, if MVNOs have one hour to notify customers, the rule for all CSPs should be one hour, rather than having a shorter 10 minute timeframe apply for some customers.

Spend Management Tools

The proposed spend management tool for a smart device (an app) (Clause 9(3)) has two parts:

- to provide usage information; and
- send alerts.

According to the draft standard, if a CSP provides both of these functions on two separate tools, it seems that they would not meet the standard. The Associations also note that it should be made clear in the standard that it is the CSP that has responsibility for the provision of alerts, rather than an application or tool (see 9 (5) (c)).

The Associations' members strongly prefer not to have to require a customer to "opt in" to use more data as per 9 (5)(c) (ii). The Associations submit that this would result in a poor customer experience. If a customer is using a lot of data, a more customer-friendly presumption would be they will want to continue to use more, so requiring them to opt-in or have their service cut-off is not necessarily helpful. It would be preferable to send alerts plus applicable offers to extend or upgrade their set allowances. Further, the Associations do not believe that an opt-in requirement is within the Minister's original intention outlined in his Direction to the ACMA

Technical Issues

The Associations note that currently the only apps that provide usage information are apps that use the Android operating system (specifically Android 2.3 or later) and that Apple's operating system does not make usage information available.

The Associations suggest that a non-fragmented approach should be strongly preferred over any solution that will only cover some customers. Regarding apps, for example, an Android app will only cover a segment of the customer base. The Associations prefer an approach that provides a workable solution for the vast majority of mobile customers.

The Associations submit that the detailed requirements in part 9 of the draft standard are too prescriptive. While it is a reasonable and workable approach for mobile service providers to be required to make available spend management tools, the requirement in part 9(5) are overly prescriptive and in some cases will not be technically possible to implement without requiring significant and costly changes to network and billing platforms. For example, currently some prepaid customers do not receive alerts based on the percentage of credit used but rather alerts regarding their remaining credit amounts and changing this would require significant technical changes and investment in prepaid platforms for marginal consumer benefit.

The Associations also suggest that a reliance on 3rd party apps may provide customers with inaccurate or incomplete information of the costs they are incurring.

Further, the Associations point out that mobile providers tend to offer varying included value data packs for different countries and may not offer a pack for some countries. Under the draft standard, this would result in an inconsistent experience for customers who move between countries and receive varying alerts about their usage or included value pack i.e. with some alerts based on a dollar figure and others based on a percentage. The Associations submit that this would result in a confusing experience for customers. To avoid such an inconsistent experience, an unintended result of the standard could be that mobile providers simply stop offering included value data packs for roaming customers.

Costs of Compliance

The Associations believe that any regulatory burden needs to be proportionate to the problem and that the benefits of regulatory solutions should be carefully weighed against the costs. Although individual carrier costs cannot be given here, the general cost categories that are likely to be incurred by CSPs in meeting the standard are outlined below. Please refer to individual carrier submissions for actual costs.

Compliance costs for CSPs can be broken down into the following components:

- IT and system changes
- Changes to billing processes and systems
- Implementation of operational changes to customer care systems and processes
- Staff training

- Customer awareness and education
- Negotiation and implementation of contractual changes required between wholesale and retail providers
- Negotiation and implementation of contractual changes between Australian networks and overseas partners

An Alternative Approach

The Associations strongly recommend that the ACMA adopt a staged approach to implementation of the standard's provisions and that where relevant, this staged approach should be aligned with the staged implementation of the TCP Code's requirements, for example, in relation to the roll-out of spend management tools. This will allow for efficiencies to be realised by CSPs as well as a consistent customer experience. It will also allow for many of the standard's requirements to be implemented sooner while some of the requirements that depend on technical and system changes can be implemented as they are available.

The Associations note that many of the draft standard's requirements could be implemented straight away by making information available on CSP websites and at storefronts; however some of the more prescriptive requirements of the standard will require significant changes to network, IT and billing systems which entail significant costs as well as take considerable time to implement.

The Associations recommend that the standard be more flexible and less prescriptive as this level of prescriptiveness will necessarily have a significant impact in terms of the costs and also timeframe for implementation of the standard.

The Associations also submit that the standard should mandate objectives in terms of information to be provided to customers. For example, the objective of the alert message to a roaming customer is to advise the customer that charges may be different while roaming and that the customer needs to be alert to this when using a device overseas. Further, the Associations maintain that while SMS is a preferred delivery method for customer alerts, SMS should not be specified as the means of delivery in the standard. Similarly, the standard should not specify the number of SMS messages to be sent to the customer.

Finally, the Associations recommend that responsibility for communicating with customers should remain with the MVNO and that a wholesale provider should not have direct communications with customers when a wholesale arrangement exists.

Attachment A:

Comparison of TCP Code Requirements and proposed Standard requirements:

ACMA Draft IMR Standard 2013	**TCP Code (C628:2012)**
No such requirement.	Clause 4.1.2(a)(iii)B requires a Supplier's Critical Information Summary to include warnings about roaming costs.
No such requirement.	Clause 4.1.3 requires a Supplier to make available information on whether a Consumer needs to take any action to activate international roaming on the Supplier's Telecommunications Product (such as applying for activation of this functionality with the Supplier) or deactivate international roaming and the basic Charges to send SMS, make and receive standard calls and for data usage on the Supplier's Telecommunications Product from different countries (including that roaming Charges may be higher than Charges for international calls from Australia and data usage may be more expensive, and that Customers may be charged for both making and receiving calls while overseas) in a prominent and/or easily navigable and/or easily searchable position on the Supplier's website.
Clause 9 (2) requires a CSP to inform a customer of IMR spend management tools before entering into contract.	No such requirement in the TCP Code for information about general spend management tools (SMTs) before entering into a contract. Clause 6.5.1(a) requires a CSP to provide a comprehensive description of its SMTs in a readily accessible position on its website.
Clause 9 (5)(a) – for a post-paid service which can incur $100 or more of charges for IMR services, each time the customer reaches an estimated increment of $100 in such charges, requires a tool that notifies the customer of total amount of estimated charges at that time.	No such requirement.
Clause 9 (5)(b) requires usage notifications for a pre-paid service when the customer reaches 50%, 85% and 100% of the total credit purchased for that service	No such requirement in TCP Code for usage notifications for pre-paid services.
Clause 9 (5)(c)(i) - for an included value pack for IMR services, the tool must notify the customer when reaches 50%, 85% and 100% of the set allowance of calls, data or SMS that can be used as part of the pack. **Customer includes all consumers and small business organisations.**	From 1 September 2013, large Suppliers and from 1 September 2014, Small Suppliers, will be required to provide usage notifications to **only Residential Customers under the TCP Code for Included Value Plans that commenced in market after 1st March 2012 and internet post-paid plans with an included data allowance (where the included value or data is not unlimited or shaped/throttled)** – clause 6.5.2
No option to opt out of receiving notifications.	Clause 6.5.3 allows the Customer options of not receiving all or some of the usage notifications or more or at different points.
Clause 9 (5)(c)(ii) – requires the customer to opt-in if customer wishes to use calls, data or SMS above the set allowance.	No such requirement in TCP Code for opt-in to go above set limit.