

Exposure draft

Explanatory statement

Telecommunications Act 1997

Telecommunications (Revocation of International Mobile Roaming Industry Standard) Direction 2019

Issued by the Authority of the Minister for Communications, Cyber Safety and the Arts

Authority

Subsection 125AA(4) of the Telecommunications Act 1997 (the Act) enables the Minister for Communications (the Minister) to direct the Australian Communications and Media Authority (ACMA), in writing, to determine an industry standard that applies to participants in a particular section of the telecommunications industry, and deals with one or more matters relating to the telecommunications activities of those participants.

Subsection 125AA(1) of the Act provides that the ACMA may determine an industry standard that applies to participants in a specified section of the telecommunications industry, and deals with one or more specified matters relating to the telecommunications activities of those participants. Subsection 125AA(5) of the Act provides that the ACMA can only determine an industry standard under subsection 125AA(1) if directed to do so by the Minister.

Subsection 33(3) of the Acts Interpretation Act 1901 relevantly provides that where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by-laws), the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.

Purpose

The purpose of the Telecommunications (Revocation of International Mobile Roaming Industry Standard) Direction 2019 (Direction) is to direct the ACMA to revoke the Telecommunications (International Mobile Roaming) Industry Standard 2013 (IMR Standard) no later than six months after this Direction commences.

The revocation of the IMR Standard is intended to occur before the commencement of a new legislative instrument expected to be made by the ACMA under subsection 99(1) of the Act, called a service provider determination (SPD). The SPD will replace the IMR Standard and will set out the rules that are to apply to carriage service providers (CSPs) that supply international mobile roaming (IMR) services.

Background

In August 2012, the Minister issued the Australian Communications and Media Authority (International Mobile Roaming Industry Standard) Direction (No. 1) 2012 under subsection 125AA(4) of the Act, requiring the ACMA to make the IMR Standard. The ACMA made the IMR Standard in accordance with section 125AA(1) of the Act in June 2013. The IMR Standard was varied by the ACMA in May 2016 following a further direction in February 2016.

The IMR Standard was made to protect consumers from unexpected high bills on their return from an overseas trip. The Standard ensures consumers are notified of activation of international mobile roaming (IMR) services and maximum IMR charges, and are able to monitor, track and where necessary alter (including stopping) their use of IMR services when overseas to better manage their spending.

On 27 June 2018, the ACMA commenced a review of the IMR Standard (the Review) as required by clause 11 of the IMR Standard. The Review found that IMR regulation has been effective in reducing bill shock but the risk of consumer detriment remains and regulation should continue. It also found that the rules in the IMR Standard should be updated to take into account consumers' evolving use of technology and provide greater flexibility in how providers notify their customers about IMR charges.

The Minister has agreed to the ACMA updating the rules in the IMR Standard as recommended by the Review and, at the same time, moving from the current industry standard instrument to a service provider determination. This change will make it administratively simpler to update the rules relating to IMR services if required in the future.

Consultation

Joint stakeholder consultation was undertaken in August 2019 on the draft Direction and draft SPD.

Regulation Impact Statement

The Office of Best Practice Regulation (OBPR) has advised that a Regulation Impact Statement is not required for this Direction (OBPR reference number 25106).

Statement of Compatibility with Human Rights

As section 42 of the Legislation Act 2003 does not apply to this instrument, being exempted under Part 4 of the Legislation (Exemption and Other Matters) Regulation 2015, a Statement of Compatibility with Human Rights is not required under section 9 of the Human Rights (Parliamentary Scrutiny) Act 2011.

Attachment A

Notes on sections

Section 1 provides the name of the Direction.

Section 2 provides that the Direction will commence the day after it is registered.

Section 3 provides that the Direction will be repealed on the day after the revocation of the IMR Standard. A self-repeal date is included to overcome the requirement for the Direction to be revoked at a future date, after it has been complied with by the ACMA.

Section 4 states the legislative authority for the Direction as being subsection 125AA(4) of the Act.

Section 5 defines the terms used throughout the Direction.

Section 6 requires the ACMA to revoke the IMR Standard no later than six months after the commencement of this Direction.