



Australian Government

**Department of Infrastructure,
Transport, Regional Development,
Communications and the Arts**

Ref: EC24-001833

Ms Cathy Rainsford
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PO Box 78
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via: [REDACTED]

Dear Ms Rainsford

Thank you for your letter to the Secretary of 25 September 2024 seeking feedback on the proposed amendments to the *Telecommunications (Emergency Call Service) Determination 2019* (the ECS Determination) arising out of the Review into the Optus outage of 8 November 2023. The Secretary has requested that I respond on his behalf.

Comments on the draft ECS Determination

We welcome the opportunity to provide comments on the draft determination.

We support the draft amendments focusing on ensuring that everyone in Australia can reasonably expect, when coverage is available via their own network provider or another, that a call to the Emergency Call Service (ECS) will be successfully carried over a mobile network.

These changes will complement work being undertaken to support a safer switch-off of the 3G network by ensuring that the regulatory framework ensures Australian consumers are confident that their mobile device can contact Triple Zero.

Where this is not possible, the department supports the draft amendments to the ECS Determination requiring end users be offered low cost alternative devices which can connect to the ECS, as well as a framework of identification, notification and ceasing of service provision to protect end users from unknowingly using mobile phones which are not able to connect to the ECS. As you are aware, work is underway to establish a handset testing framework that will underpin these requirements and facilitate their implementation over time.

While we recognize the need for flexibility in regard to international travelers, there must still be a robust notification process in place to ensure that any person staying in Australia

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indefinitely, should not be provided a mobile service in Australia, on a device unable to connect to the ECS.

We suggest that the period specified should be 3 months (the minimum validity of a tourist visa), and the notification should only advise that traveller that their mobile will not make an emergency call. It is unlikely that a tourist will want to purchase a new phone for a short stay, especially if they're just using international roaming.

Specific comments

We do have two specific matters we would like highlight where the proposed amendments to the ECS Determination deviate somewhat from the objectives and content requirements of the Minister's direction. Both areas relate to the notification process in which an end user's device is no longer able to access the ECS (Part 65). A distinction between the wording in the amendment and the direction is included below.

1. Part 65 (2)(a) of the draft ECS determination:

“(2) The carriage service provider must:

*(a) **promptly** send a notification to the end-user or customer advising that the mobile phone is no longer configured to be able to access the emergency call service and all carriage services supplied by the provider in connection with the mobile phone will be disabled after 28 days;”*

This relates to Part 2 (d)(i) of the Minister's direction to the ACMA which states:

“(d) where an end-user's mobile phone is no longer able to access the emergency call service using either the provider's own network, or the networks of other carriage service providers who provide carriage services to the public, the carriage service provider is to:

*(i) **within a specified period**, notify the end-user that the mobile phone is no longer able to access the emergency call service”*

The current version of the draft ECS Determination amendment does not specify a time period for Carriage Service Providers (CSPs) to notify an end-user or customer whose mobile phone can no longer access the ECS.

This does not meet the objectives of the Minister's direction. Further, without a specified period of time for notification, end users could be left for an undetermined amount of time with a mobile phone that is unable to access the ECS.

2. Part 65 (4) of the draft ECS determination amendment:

*“(4) **Between 8 and 15 days** after sending the fourth notification under paragraph (2)(d), the carriage service provider must cease to supply any carriage services to the end-user in connection with the mobile phone”*

This relates to Part 2 (d)(ii) of the Ministers direction to the ACMA which states:

“(ii) at the end of a specified period, cease supplying carriage services to the end-user in connection with that mobile phone;”

By allowing time for a CSP to cease supplying services to an end user anywhere between 8 and 15 days after a final notification that the end-user’s mobile phone service can no longer access the ECS, it is questionable whether the draft determination meets the Minister’s direction of ceasing services at the end of a specified period.

The department acknowledges that a hard deadline may be difficult for CSPs to reach given the complexity of identifying and substantiating whether a mobile phone is no longer able to access the ECS. However, the beginning of the notification period is currently subject to the discretion of CSPs, allowing for a further window for the cessation of an end users services could increase the likelihood of negative end user outcomes.

We would welcome the opportunity to discuss any of these issues with you.

Your sincerely



Kathleen Silleri

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