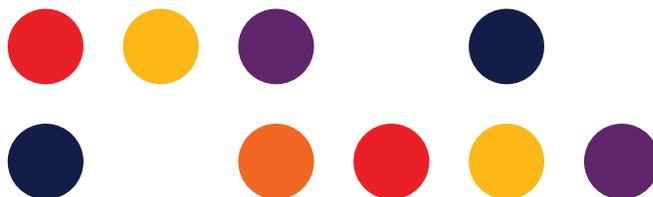




TPG Telecom Submission on Telecommunications (Emergency Call Service) Amendment Determination 2024 (No.1)

Australian Communications and Media Authority

October 2024



Submission

TPG Telecom welcomes the opportunity to provide a submission in response to the ACMA's consultation on the Telecommunications (Emergency Call Service) Amendment Determination 2024 (No.1).

This submission offers further insights into the practical challenges associated with implementing the proposed amendments, beyond the industry level comments provided in the submission of the Communications Alliance (CA).

TPG Telecom notes the underlying policy intent to ensure all 4G capable handsets operating in the domestic market are able to access the emergency call service. However, there are concerns regarding the practical feasibility of enforcing the proposed amendments to the Determination in the form proposed by the ACMA. In TPG Telecom's view, there are alternative amendments that can be made to the Determination that remain consistent with both the underlying policy intent and the Direction issued by the Minister for Communications.

In making this submission we have had close regard to the Direction instrument and its accompanying Explanatory Statement. Where we have proposed alternative approaches to amending the Determination, we have also explained why we consider these to still be consistent with the Direction given to the ACMA.

Specific Comments on key sections of the draft amendment

Objectives and Requirements of the Direction (Question 1)

It is understood that the objective of the Direction and the related amendments to the Determination are to ensure that mobile phones should be able to access the emergency call service using both the home network and via the alternative networks (camp on).

As we expand on below, changes to the ACMA's proposed approach are required to ensure that the provisions are: 1) capable of being implemented by mobile network operators (MNOs); and 2) enforceable by the ACMA.

Definition of Mobile Phone (Question 2)

While it is generally understood that the objective relates only to mobile phone handsets (eg excludes Internet of Things and wearable devices etc), it would be useful for the ACMA to include a note in the Determination putting beyond doubt the exclusion of non-voice communication devices which are not intended to be part of this regulation. A proposed definition is included in the CA submission.

Section 62: New customers - Identification of Mobile Devices That Cannot Access the Emergency Call Service (Questions 3-5)

TPG Telecom thoroughly tests a range of handsets for compliance with the prevailing network standards. We include these devices on our 'Approved Devices' list as we have tested, among other things, the capability to call emergency services via both the home network and via 'camp on' on alternative networks.

However, a large number of new and existing customers choose to purchase carriage services in the form of 'SIM-only' plans, which are then either inserted or loaded (eSIM) into the handset.

For these devices, the MNO does not have any information regarding the handset intended for use to obtain the carriage service until the device has attached to the network. From there we can observe the IMEI number of the handset, extract the Type Allocation Code (TAC) and can determine the phone manufacturer and model. This can then be checked against a list of known capabilities.

Clause 6(2)(a) of the Direction requires service providers to identify if the mobile phone of an end-user requesting the service can access emergency services. It does not expressly require this occur before the carriage service is provided. While clause 6(2)(b)(ii) requires that a carriage service not be supplied, no timeframe is stipulated for when the service must cease being supplied. In fact, Clause 6(2)(b)(i) clearly envisages some period of time where the end-user can receive communications, as that clause requires that the end-user be notified that the mobile phone is not able to access the emergency call service.

Accordingly, in order for Section 62 of the Determination to be workable, the reference to "before supplying a service to the customer" must be removed. It is sufficient to maintain the words from the Direction itself requiring service providers to identify if the mobile phone of an end-user requesting the supply of carriage services from the provider is able to access the emergency call service. The steps and timeframe to be followed from there are matters dealt with in Section 63.

Section 63: New customers - Notification Requirements and cessation of services

Where a service provider has identified that a handset of a new end-user is unable to contact emergency services, the Direction requires that a notification to that effect be sent to the customer. Information must also be provided in relation to alternative low cost or no cost handsets.¹ Secondly, service providers are not to supply carriage services to the end-users in connection to that phone.

¹ The ACMA will need to clarify that this information (including links to our website and handset sales for purchase) would not be considered to be marketing material for the purposes of the *Spam Act 2003*, and can be sent to all customers, including those who may have opted-out or unsubscribed from receiving marketing material.

Combining the operational requirements of the handsets needing to attach to the network before identification can occur and the logical flow of the Direction, a workable set of requirements can be implemented.

First, when a customer buys a SIM card or an eSIM, it is loaded into the phone. The handset then attaches to the network. IMEI information is then recorded in the network when voice or data services are used. This can be used to identify the device manufacturer and device model. The emergency calling capabilities of this device may already be known or reference may have to be made to the manufacturer.

Once the service provider becomes aware of any new handsets being unable to call emergency services, the logical flow is:

1. Notification sent to end-user, including information on where to obtain information on alternative handsets
2. Carriage services are not supplied to the end user in connection with that mobile phone.

In our view, this set of requirements and logic flow is consistent with the Direction, is capable of being implemented and is enforceable.

The current proposal to identify handset capability before a device has attached to the network is not workable and would be unenforceable.

Section 64: Existing customer - Identification of Mobile Devices That Can No Longer Access the Emergency Call Service

The Direction requires that the ACMA provide a separate process for the management of existing customers with handsets that MNOs identify as no longer capable of accessing emergency call services.

There are two key scenarios that we understand that this provision would cover:

- The closure of the 3G networks as this would result in all 3G-only, 4G non-VoLTE capable, or handsets programmed to fallback to circuit switched calling for accessing emergency services not being able to access emergency calling
- Testing undertaken through UTS or similar testing framework identifying that in-market handsets are not able to 'camp on' to alternative networks when the home network is not available.

The ACMA's proposed Section 64 provides a reasonable implementation of the requirement in the Direction to identify such devices. As noted in the CA submission, this could be further clarified by referencing service providers 'becoming aware' that a mobile phone can no longer access emergency calling.

As explained in the CA submission, to ensure that there is an efficient process for recording all device types that are found not to be able to access emergency calling through the UTS (or other) testing process, the ACMA should maintain a register of blacklisted devices.

Section 65: Existing customers - Rolling Notifications and Service Discontinuation

Once a service provider has become aware that a mobile phone can no longer access emergency services, the Direction requires that notification of the end-user within a specified period. At the end of that period, carriage services must cease to be provided. This is the process service providers will be using for existing customers.

The ACMA has proposed a prescriptive process of an immediate notification followed by 3 weekly reminder notifications, with the service to be blocked between 8 and 15 days after the final notification. This implies a final notification being sent on 18 November, with all disconnections to occur in a 7-day window, from 26 November.

TPG Telecom suggests that the impact on customers can be better managed with a flexible process, recognising the numerous notifications already received by customers on the need to act to upgrade their handsets.

This flexibility will allow industry to carefully manage the number of handsets impacted throughout November, rather than requiring all handsets to be blocked over the course of a 7 day period.

Section 66: Payment assistance policy

A carriage service provider must allow for at least one method by which customers experiencing financial hardship can receive assistance to obtain low cost or no cost mobile phones that can access emergency call services. TPG Telecom has already provided information for customers who may be experiencing financial hardship with regard to support for upgrades to compatible handsets.

The *Telecommunications (Financial Hardship) Industry Standard 2024* has prescriptive rules on the content and length of published financial hardship information (s13). Due to these limitations, we recommend the obligation include a requirement to make this information available in connection with a Financial Hardship policy, not as an additional content requirement of the policy or the associated summary. This is the process TPG Telecom has undertaken in the provision of the requested information for consumers.

Section 67: Foreign Travellers exception

An exception is provided to both requirements to block carriage services for new and existing customers for foreign travellers. However, this exception only operates if the service provider is aware that the foreign traveller is to stay in the country for less than 60 days and a notification is provided that the mobile phone is unable to access emergency services.

There are two ways in which foreign travellers can use telecommunications services while in Australia. First, the traveller may continue to use their handset and existing international SIM if their provider has an international roaming agreement in place with a local service provider. These travellers are referred to as “inbound roamers”. Alternatively, a traveller can purchase a local SIM or eSIM for use in their existing handset for the duration of their stay.

In either scenario, service providers have no way of knowing the precise intention of the traveller when they connect to our networks. However, it is reasonable to assume that inbound roamers will be within Australia for a limited period of time. We therefore submit that the ACMA should amend the Determination to allow service providers to deem inbound roamers as an exception to the new requirements.

This must also include an exemption from the requirement to send messages to inbound roamers. Service providers are not permitted to contact inbound roamers without the explicit approval of the inbound roaming partner in compliance with GSMA BA.47. TPG Telecom does not have this approval so messaging inbound roamers is not feasible.

For international travellers electing to purchase a local SIM or eSIM for use while they are in the country, there would be no difference on the network side between a new permanent domestic service and one being provided to a temporary traveller.

A hypothetical process of requiring travellers to contact our frontline staff and provide the requisite documentation to prove travel intentions would be cumbersome and too costly to administer. As a result, it is likely that this exception will not be used for international travellers who purchase a local SIM or eSIM and these will be treated in accordance with the requirement of the Determination.