



Telecommunications (International Mobile Roaming) Industry Standard 2013

Telecommunications Act 1997

The AUSTRALIAN COMMUNICATIONS AND MEDIA AUTHORITY determines this Standard under subsection 125AA(1) of the *Telecommunications Act 1997*.

Dated 27/6/2013

Chris Chapman

[signed]

Member

Richard Bean

[signed]

Member/~~General Manager~~

Australian Communications and Media Authority

1. Name of Standard

This Standard is the *Telecommunications (International Mobile Roaming) Industry Standard 2013*.

2. Commencement

- (1) Paragraphs 5(2)(b) and (c), subclauses 5(4) and(6), subclauses 9(2), (3), (4), (5), (6), (7), (8) and (9), and the notes under subclauses 5(2) and 5(4) of this Standard commence on 27 September 2014.
- (2) The remaining provisions of this Standard commence on 27 September 2013.

Note: All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See <http://www.frli.gov.au>.

3. Definitions

For the purposes of this Standard:

ABS means the Australian Bureau of Statistics.

ACMA means the Australian Communications and Media Authority.

Act means the *Telecommunications Act 1997* (Cth).

automatic prepayment means a prepayment of future possible charges that occurs with the consent of the customer, but without requiring the customer to authorise each individual prepayment.

automatic pre-pay service means a telecommunications product in relation to which automatic prepayment is enabled.

BSA means the *Broadcasting Services Act 1992* (Cth).

charge means the tariff or fee which a supplier levies for the provision of a telecommunications product or a related transaction.

consumer means:

- (a) an individual who acquires or may acquire one or more telecommunications products for the primary purpose of personal or domestic use and not for resale; or
- (b) a business or non-profit organisation which acquires or may acquire one or more telecommunications products which are not for resale and which, at the time it enters into a customer contract:
 - (i) does not have a genuine and reasonable opportunity to negotiate the

terms of the customer contract; and

- (ii) has or will have an annual spend with the supplier which is, or is estimated on reasonable grounds by the supplier to be, no greater than \$AUD20,000.

CSP means a carriage service provider;

current usage estimate means the following details, current at the time of the enquiry, or at a time within the 48 hours previous to the enquiry:

- (a) in the case of post-paid service, the actual usage of the product and the charges incurred that have not yet been billed to the customer;
- (b) in all other cases, the actual usage of the purchased telecommunications product, and the amount of the product that has been used.

customer means a consumer who has entered into a customer contract with a supplier.

customer contract means an arrangement or agreement between a supplier and a consumer for the supply of a telecommunications product to that consumer, including but not limited to an arrangement or agreement of that kind based on a standard form customer contract.

flagfall means a charge for establishing a telephone call.

IMR service means an international mobile roaming service.

included value pack means an arrangement by which a consumer receives an IMR service which includes a set allowance of calls, SMS or data.

included value plan means a mobile post-paid service plan under which a consumer receives a set monthly allowance of calls, SMS or data which is of greater value than the minimum monthly charge.

international mobile roaming service means a carriage service that enables a mobile subscriber to automatically and seamlessly make, send, access or receive voice calls and SMS and to download and upload data when travelling overseas outside the normal coverage area without losing the connection.

maximum charge information means, in relation to a customer's service in an overseas country:

- (a) the maximum charge in Australian dollars for making a 1 minute call to Australia from the overseas country (including flagfall or any additional charges where applicable);
- (b) the maximum charge in Australian dollars for making a 1 minute call to a number within the overseas country (including flagfall or any additional charges where applicable);
- (c) the maximum charge in Australian dollars for receiving a 1 minute call

- within the overseas country (including flagfall or any additional charges where applicable);
- (d) the maximum charge in Australian dollars for sending an SMS message to Australia from the overseas country;
 - (e) the maximum charge in Australian dollars for sending an SMS message within the overseas country;
 - (f) the maximum charge in Australian dollars for receiving an SMS message within the overseas country; and
 - (g) the maximum charge in Australian dollars for using one megabyte of data in the overseas country.

mobile network operator means a CSP that provides a public mobile telecommunications service through its own telecommunications network.

mobile virtual network operator means a CSP that provides a public mobile telecommunications service, but does not use its own telecommunications network to do so.

post-paid service means a telecommunications product that can be used fully or in part prior to being paid for by the consumer.

significantly higher charges means charges which are more than 10% greater than the charges that would apply for the equivalent service in Australia.

SMS means short message service.

SMS enabled device means a device capable of using a public mobile telecommunications service to send and receive SMS messages.

SMS message means a message or series of messages sent using SMS.

spend management tool means a tool made available to a customer by a CSP to assist the customer to take timely action to limit or otherwise manage their usage or expenditure in relation to a particular telecommunications product.

subscription broadcasting service has the meaning given in the BSA.

subscription television narrowcasting service has the meaning given in the BSA.

supplier means a CSP who supplies a listed carriage service to the public.

telecommunications goods means goods supplied by a supplier for use in connection with the supply of a telecommunications service, whether or not the goods are supplied in conjunction with, or separately from, a telecommunications service.

telecommunications product includes telecommunications goods and a telecommunications services.

telecommunications service means:

- (a) a listed carriage service and any service supplied by a supplier in connection with that service; and
- (b) a content service (other than a subscription broadcasting service or a subscription television narrowcasting service) provided by the supplier in connection with the supply of a listed carriage service.

unlocking means the permanent removal of a restriction that prevents the use of a telecommunications good (such as a mobile phone handset) with a telecommunications service of the customer's choice.

Note By reason of paragraph 13(1)(b) of the *Legislative Instruments Act 2003*, unless the contrary intention appears, expressions in this Standard have the same meaning as in the Act, including:

- Australian number
- carriage service
- carriage service provider
- content service
- listed carriage service
- public mobile telecommunications service.

4. Application of this Standard

This Standard applies to all CSPs supplying IMR services.

5. Mobile network operators to give information about supply of IMR services

- (1) Where a CSP is a mobile network operator, and uses a carriage service to supply IMR services to its customer, and the customer has activated a SMS enabled device in an overseas country for the supply of the IMR service, the CSP must give the customer, within 10 minutes of the customer activating the SMS enabled device:
 - (a) an SMS message in the following terms, subject to subclause (3):
“Warning – you have activated your mobile device overseas. Significantly higher charges may apply. There may be delays in receiving usage data and alerts.”;
 - (b) an SMS message that advises the customer of the maximum charge information in relation to the overseas country in which the customer has activated the SMS enabled device for the supply of IMR services; and

(c) an SMS message, which may be the same message as the message given in compliance with paragraph (b), that advises the customer of the method by which the customer may decline the continued supply of the IMR services at any time while travelling overseas, including (as appropriate) the telephone number or website address by which the method may be accessed.

(2) Where a mobile network operator supplies a carriage service to another CSP (the **second provider**) and the service is used to supply IMR services to a customer of the second provider or another CSP that supplies IMR services, through the mobile network operator's telecommunications network, and the customer has activated an SMS enabled device in an overseas country for the supply of the IMR service, the mobile network operator must:

(a) give the customer, within 10 minutes of the customer activating the SMS enabled device, an SMS message in the following terms, subject to subclause (3):

“Warning – you have activated your mobile device overseas. Significantly higher charges may apply. There may be delays in receiving usage data and alerts.”;

(b) give the second provider notice, within one hour of the customer activating the SMS enabled device, that IMR services are being supplied to the customer; and

(c) give the second provider, as soon as practicable, the following information:

(i) the mobile number of the customer; and

(ii) the overseas country in which the customer has activated the SMS enabled device.

Note: In some cases the end user will not be a customer of the second provider. In such a case the second provider (and any further providers in the chain of supply) will have obligations under subclause (4) to pass the information received under paragraph (2)(b) and (2)(c) along the chain of supply.

(3) The second sentence of the warning message required to be sent by paragraph (1)(a) or (2)(a) may be omitted if the CSP considers on reasonable grounds that no significantly higher charge will apply to that customer.

(4) If a CSP receives information which has been given to it or to another CSP under paragraph (2)(b) or (2)(c), and the information relates to a customer

who is not the customer of the CSP, the CSP must take all reasonable steps to ensure the information is supplied to the customer's CSP as soon as is reasonably practicable.

Note: In some cases a carriage service that is used to supply IMR services may be resold through one or more service providers before it is supplied to the end-user. In such cases CSPs must pass paragraph (2)(b) and (2)(c) information along so that it reaches the end user's CSP.

- (5) The warning message in paragraphs (1)(a) or (2)(a), and the information in paragraphs (1)(b) and (1)(c) must be given each time the customer activates an SMS enabled device in an overseas country for the supply of IMR services, unless a message of that kind was sent to the customer in that country within the preceding 14 days.
- (6) The notification in paragraph (2)(b), and the information in paragraph (2)(c) must be given each time the customer activates an SMS enabled device in an overseas country for the supply of IMR services, however the notification in paragraph (2)(b) need not be given if a unless a message of that kind was sent to the customer in that country within the preceding 14 days.
- (7) A CSP may not charge a fee for giving the warning message in paragraphs (1)(a) or (2)(a), or the information in paragraphs (1)(b) or (1)(c).

Note 1: An SMS message sent in compliance with this clause must also comply with the *Spam Act 2003*, if applicable.

Note 2: CSPs must comply with their obligations under the *Privacy Act 1988*.

Note 3: A requirement to give SMS messages of the kind described in paragraphs (1)(b) and (1)(c) would be satisfied by giving an SMS message in the following terms:

“Cost 1 min call to Aus=\$[insert cost in dollars and cents], 1 min call within [country]=\$[insert cost in dollars and cents], receipt of 1 minute call = \$[insert cost in dollars and cents], SMS to Australia=\$[insert cost in dollars and cents], SMS within [country]=\$[insert cost in dollars and cents], receipt of SMS=[insert cost in dollars and cents], 1mb data= \$[insert cost in dollars and cents]. To cease all services while overseas [insert description of opt-out mechanism]”, where each item in square brackets is completed with accurate information of the necessary type.

6. Mobile virtual network operators to give information about supply of IMR services

- (1) Where a CSP is a mobile virtual network operator and supplies or will supply IMR services to a customer, the CSP must:

- (a) prior to 23 May 2016, where the customer is using a post-paid service or an automatic pre-pay service, either give the information described in subclause (2), or give the SMS messages described in subclause (3);
 - (b) from 23 May 2016, give the SMS messages described in subclause (3).
- (2) A CSP gives the information described in this subclause (2) if, immediately prior to agreeing to provide a IMR service to a customer, it gives to the customer:
- (a) a copy of a fact sheet, produced by the ACMA, on alternatives to IMR services; and
 - (b) the following written information:
 - (i) a statement advising the customer that use of a telecommunications product outside Australia may incur significantly higher charges than use of the product within Australia;
 - (ii) the maximum charge information in relation to each of the top ten destination countries reported by the ABS in the publication “3401.0 – Overseas Arrivals and Departures, Australia” or equivalent publication most recently published by the ABS;
 - (iii) a statement advising the customer that they may request the CSP to provide maximum charge information in relation to any other overseas country;
 - (iv) details about the spend management tools that are available to the customer in relation to the IMR services;
 - (v) details about the method by which the customer may decline the continued supply of the IMR services at any time while travelling overseas, including (as appropriate) the telephone number or website address by which the method may be accessed; and
 - (vi) where a telecommunications good is supplied as part of the telecommunications service, the CSP’s charge (if any) for unlocking.

Note 1: The ACMA factsheet on alternatives to IMR services is available on the ACMA website at www.acma.gov.au.

Note 2: The publication referred to in paragraph 6(2)(ii) is available via the ABS website: www.abs.gov.au.

- (3) A CSP gives the SMS messages described in this subclause (3) if within 10 minutes of receipt of information about a customer's activation of IMR services in an overseas country it gives the customer:
- (a) an SMS message, in relation to the overseas country in which the customer has activated the SMS enabled device for the supply of IMR services, that advises the customer of the maximum charge information; and
 - (b) an SMS message, which may be the same message as the message sent under paragraph (a), that advises the customer of the method by which the customer may decline the continued supply of the IMR services at any time while travelling overseas, including (as appropriate) the telephone number or website address by which the method may be accessed.
- (4) A CSP may not charge a fee for providing information under subclause (2) or for giving an SMS message under subclause (3).
- (5) Information provided under subclause (2) must be clearly distinguished from any other material provided by the CSP to the customer at that time.

Note 1: An SMS message sent under this clause must also comply with the *Spam Act 2003*, if applicable.

Note 2: A message in the following terms would comply with subclause (3):

“Cost 1 min call to Aus=[insert cost in dollars and cents]*, 1 min call within [country]=*[insert cost in dollars and cents]*, receipt of 1 minute call =*[insert cost in dollars and cents]*, SMS to Australia=*[insert cost in dollars and cents]*, SMS within [country]=*[insert cost in dollars and cents]*, receipt of SMS=*[insert cost in dollars and cents]*, 1mb data=* [insert cost in dollars and cents]*. To cease all services while overseas [insert description of opt-out mechanism]”*, where each item in square brackets is completed with accurate information of the necessary type.

7. CSPs to otherwise give maximum charge information

- (1) All reasonable steps must be taken by a CSP to supply such information as is reasonably required to enable each other CSP to supply up to date maximum charge information to the customers of that other CSP.

Note: In some cases a carriage service that is used to supply IMR services may be resold through one or more CSP before it is supplied to the end-user. In such cases a CSP must pass along such information as is reasonably required to enable the supply of up to date maximum charge

information to the end user.

- (2) If the customer requests a CSP to provide maximum charge information in relation to any overseas country, the CSP must provide that information to the customer within 24 hours of receiving the request.

8. CSPs to make available method to decline IMR services

- (1) A CSP must make available at least one method by which a customer of that CSP may decline the continued supply of IMR services at any time while travelling overseas by:
 - (a) calling a particular Australian number; or
 - (b) accessing the website of the CSP.

Note 1: Customers must be provided with information about the method or methods available – see paragraph 5(1)(c), subparagraph 6(2)(b)(v), and paragraph 6(3)(b).

Note 2: Subclause (1) does not limit by implication the methods that a CSP may make available for a customer to decline the continued supply of IMR services.

- (2) If a customer declines the continued supply of IMR services using a method made available to the customer by their CSP, the CSP must ensure that the supply of IMR services to the customer ceases as soon as practicable, and in any event within 24 hours.
- (3) If a customer chooses to decline the continued supply of IMR services by calling a particular Australian number, the CSP may not charge the customer more than \$AUD 1.00 to do so.
- (4) If a customer chooses to decline the continued supply of IMR services by accessing the website of the CSP, the CSP may not charge the customer a fee to do so.

9. CSPs to make available spend management tools for IMR services

- (1) A CSP which supplies IMR services to a customer must, immediately prior to entering into a customer contract with the customer which provides for the supply of IMR services, and immediately prior to any variation of a customer contract to allow for the supply of IMR services, inform the customer of the spend management tools for IMR services which it makes available and of

how those tools can be accessed by the customer.

- (2) In addition to the obligation at subclause (2), a CSP which supplies IMR services to a customer must make available, without charge, at least one spend management tool that:
 - (a) allows the customer to obtain current usage estimates in relation to IMR services; or
 - (b) where there is a delay in the CSP receiving usage information such that it cannot provide current usage estimates, provides the customer with advice about the delay and the approximate length of the delay, and allows the customer:
 - (i) in the case of a post-paid service, to obtain the latest available information about the customer's usage of IMR services and the charges incurred that have not yet been billed to the customer;
 - (ii) in the case of all other services, to obtain the latest available information about the actual usage of the purchased telecommunications product in relation to IMR services, and the amount of the telecommunications product that has been used.
- (3) A CSP which supplies IMR services to a customer must make available spend management tools that meet the following requirements:
 - (a) if a customer is using a post-paid service under which the customer may incur \$AUD100 or more of charges for IMR services in relation to data usage, the tool must, each time the customer reaches an estimated increment of \$AUD100 in such charges, result in the customer being notified as soon as is reasonably practicable of the total amount of estimated charges at that time for services which have not yet been billed to the customer;
 - (b) if a customer is using an included value pack the tool must result in the customer being notified as soon as is reasonably practicable after the customer reaches 50%, 85% and 100 % of the included value; and
 - (c) if a customer is using an automatic pre-pay service under which the customer may incur \$AUD100 or more of charges in relation to data usage, the tool must:
 - (i) each time the customer reaches an estimated increment of \$AUD100 in such charges, result in the customer being notified as

soon as is reasonably practicable of the total amount of estimated charges at that time for services which have not yet been billed to the customer; or

- (ii) result in the customer being notified as soon as is reasonably practicable after an automatic prepayment.

Note: The spend management tools in subclauses (2) and (3) may be provided as a single tool.

- (4) The requirement in paragraph (3)(b) does not apply where the customer is using an included value pack that is part of an included value plan of a kind that was made available by the CSP prior to 1 March 2012.
- (5) A notification under paragraph (3)(b) when a customer reaches 100% of the included value of an included value pack, must also include the maximum charge information that will apply to the customer's service if the customer continues to use the IMR services that were included in the included value pack in the relevant overseas country.
- (6) A notification under subclause (3) must be given by way of an SMS message.
- (7) All reasonable steps must be taken by a CSP to supply such information as is reasonably required to enable each other CSP to supply to its customers the spend management tools described in subclauses (2) and (3).
- (8) The spend management tools made available by a CSP in accordance with subclauses (2) and (3) must be easily accessible to the customer.
- (9) A CSP that supplies IMR services in the capacity of a mobile virtual network operator will not be required to comply with subclauses (2) to (8) until 23 May 2016.

10. Referral of complaints to the Telecommunications Industry Ombudsman

This Standard confers on the Telecommunications Industry Ombudsman the functions and powers of:

- (a) receiving;
- (b) investigating;
- (c) facilitating the resolution of;
- (d) making determinations in relation to;

- (e) giving directions in relation to; and
- (f) reporting on,

complaints made by customers about matters referred to in this Standard, including compliance by CSPs with the obligations imposed under this Standard.

11. Review of Standard

Before 27 June 2018, the ACMA must cause a review to be conducted of the operation of this Standard.