



# Telecommunications (Service Provider — Identity Checks for Prepaid Mobile Carriage Services) Determination 2017

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The AUSTRALIAN COMMUNICATIONS AND MEDIA AUTHORITY makes the following Determination under subsection 99(1) of the *Telecommunications Act 1997*.

Dated 6 April 2017

Richard Bean  
[signed]  
Member

James Cameron  
[signed]  
Member/~~General Manager~~

Australian Communications and Media Authority

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## Part 1 Preliminary

### 1.1 Name of Determination

This is the *Telecommunications (Service Provider — Identity Checks for Prepaid Mobile Carriage Services) Determination 2017*.

### 1.2 Commencement

This Determination commences at the start of the day after it is registered on the Federal Register of Legislation.

*Note* The Federal Register of Legislation may be accessed at [www.legislation.gov.au](http://www.legislation.gov.au).

### 1.3 Authority

This Determination is made under subsection 99(1) of the *Telecommunications Act 1997*.

### 1.4 Repeal of the *Telecommunications (Service Provider – Identity Checks for Prepaid Mobile Carriage Services) Determination 2013*

The *Telecommunications (Service Provider — Identity Checks for Prepaid Mobile Carriage Services) Determination 2013* [F2013L01844] is repealed.

### 1.5 Definitions

In this Determination, unless the contrary intention appears:

***access-controlled defence site*** means defence premises which can only be accessed through a defence access control point.

***account transfer*** means the transfer of money from one specified financial account to another specified financial account.

***Act*** means the *Telecommunications Act 1997*.

***activate***, in relation to a prepaid mobile carriage service, means to enable the service to be used for any communications in addition to the following:

- (a) communications between an end-user and the carriage service provider; and
- (b) calls to an emergency call service.

***ADI*** means an authorised deposit-taking institution within the meaning of subsection 5(1) of the *Banking Act 1959*.

***approved compliance plan*** means an approved CSP plan or an approved joint plan.

***approved CSP plan*** means a CSP plan approved by the ACMA under subsection 5.5(1), including any amendment to the plan approved under paragraph 5.6(3)(b), that has not been revoked under subsection 5.8(9).

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**approved joint plan** means a joint plan approved by the ACMA under subsection 5.5(1), including any amendment to the plan approved under paragraph 5.6(3)(b), that has not been revoked under subsection 5.8(9).

**Australian Charities and Not-for-profits Commission register** means the register mentioned in section 40-5 of the *Australian Charities and Not-for-profits Commission Act 2012*.

**Australian credit licence** has the same meaning as in subsection 35(1) of the *National Consumer Credit Protection Act 2009*.

**authorised party**, in relation to a carriage service provider, means a person authorised in writing by the carriage service provider to:

- (a) sell a prepaid mobile carriage service; or
- (b) invite a person to use a prepaid mobile carriage service at no charge to that person;

for, or on behalf of, the carriage service provider.

*Note* For example, a carriage service provider may authorise a retailer to sell or give away prepaid mobile carriage services. A retailer so authorised is an *authorised party* in relation to the carriage service provider.

**business day** means a day other than a Saturday, Sunday or a day that is a public holiday in any State or Territory.

**carriage service number** means a number specified in the *Telecommunications Numbering Plan 2015* for use in connection with the supply of carriage services to the public in Australia.

**category A document** and **category B document** have the meanings given by section 1.8.

**Communications Access Co-ordinator** has the meaning given by section 6R of the *Telecommunications (Interception and Access) Act 1979*.

**compliance plan** means a CSP plan or a joint plan.

**credit card** and **credit card contract** have the same meanings as in section 133BA of the *National Consumer Credit Protection Act 2009*.

**CSP plan** means a plan lodged with the ACMA under section 5.2 by a carriage service provider and which, if approved by the ACMA under subsection 5.5(1), applies to the carriage service provider.

**customer**, of a prepaid mobile carriage service, means either:

- (a) a purchaser; or
- (b) a service activator.

**deactivate**, in relation to a prepaid mobile carriage service, means to take action to ensure that the service is no longer activated.

**debit card** has the same meaning as in subsection 39(6) in Schedule 2 to the *Competition and Consumer Act 2010*.

**defence access control point** and **defence premises** have the same meanings as in section 71A of the *Defence Act 1903*.

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***direct debit arrangement*** means an arrangement where a periodic payment is automatically deducted by a carriage service provider from a service activator's specified financial account for the ongoing supply of the service activator's prepaid mobile carriage service, implemented by the carriage service provider at the service activator's request.

***eligible prepaid (direct debit) account*** means an account held by a service activator with a carriage service provider for the supply of an eligible prepaid (direct debit) service.

***eligible prepaid (direct debit) service*** means an activated prepaid mobile carriage service supplied by a carriage service provider to a service activator for which:

- (a) the carriage service provider has complied with section 4.5 in relation to the activation of the service; and
- (b) the carriage service provider and the service activator have in place a direct debit arrangement using the service activator's specified financial account.

***eligible prepaid (other) account*** means an account held by a service activator with a carriage service provider for the supply of an eligible prepaid (other) service.

***eligible prepaid (other) service*** means an activated prepaid mobile carriage service supplied by a carriage service provider to a service activator:

- (a) that has been activated for 24 months or less from the time of activation;
- (b) for which the carriage service provider has complied with section 4.5 in relation to the activation of the service by verifying the identity of the service activator using a method of identity verification other than that in item 6 of Schedule 1; and
- (c) that is not an eligible prepaid (direct debit) service.

***end-user equipment*** means customer equipment that is used or capable of being used by an end-user to access a prepaid mobile carriage service.

***entity*** means a corporation or any other person who is not an individual.

***foreign military ID card*** means an identification card:

- (a) issued in the name of an individual by a foreign government;
- (b) showing a picture of the individual; and
- (c) identifying the individual as a current member of the defence forces of that government.

***government document*** means a document that is issued by the Commonwealth or a State or Territory that is evidence of the person's identity in Australia or use of that identity in Australia.

*Note* Examples of government documents include a current driver licence, Medicare card or Australian passport.

***government online verification service*** means an online service which allows users of that service to confirm the validity of information recorded on certain identification documents against the databases of the government

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agency that issued the relevant identification documents, in a manner authorised by that government agency or its representatives.

**group of carriage service providers** means two or more carriage service providers who join together for the purposes of preparing a joint plan and applying to the ACMA for approval of the plan.

**joint plan** means a plan lodged with the ACMA under section 5.3 by a group of carriage service providers and which, if approved by the ACMA under subsection 5.5(1), applies to each carriage service provider forming part of the group of carriage service providers.

**law enforcement agency** means an interception agency or enforcement agency within the meaning of the *Telecommunications (Interception and Access) Act 1979*.

*Note* The terms *interception agency* and *enforcement agency* are defined in section 5 of the *Telecommunications (Interception and Access) Act 1979*.

**licensed credit provider** means a person holding an Australian credit licence.

**post-paid carriage service** means a carriage service that is supplied by a carriage service provider to a person where:

- (a) the service may be used fully or in part before payment for the supply of the service is made; and
- (b) the person has arranged with the carriage service provider to pay either an amount notified in an invoice issued by the carriage service provider, or instalments of fixed amounts at regular intervals (each of which is to be, or not to be, notified in an invoice), for the supply of the service.

**prepaid mobile carriage service** means a carriage service that has the following characteristics:

- (a) it is a public mobile telecommunications service used in connection with a carriage service number;
- (b) the payment for the supply of the service must be made before the service is used, unless the supplier of the service has not required payment for the initial supply of the service; and
- (c) it is not a post-paid carriage service.

**purchaser**, of a prepaid mobile carriage service, means:

- (a) the person who pays for the service at the time of sale; or
- (b) if a carriage service provider or authorised party in relation to the carriage service provider issues an invitation to use the service at no charge to a person who accepts the invitation — a person who accepts the invitation.

**rates statement** means a statement of account for council rates, or rates imposed by the Legislative Assembly of the Australian Capital Territory.

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**service activator** means the individual seeking to have a prepaid mobile carriage service activated by the carriage service provider that supplies the service.

**specified financial account** means:

- (a) an account with an ADI; or
- (b) a credit account made available to a person by a licensed credit provider in accordance with a credit card contract between the person and the provider.

*Note* A specified financial account does not include monetary value that is accessible through a “stored value card” as defined in the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*.

**time of activation** refers to the time when a prepaid mobile carriage service is activated by a carriage service provider.

**time of sale** refers to the time when a prepaid mobile carriage service is purchased or acquired from a carriage service provider or an authorised party in relation to the carriage service provider.

**transaction code** means a series of numbers, letters or other characters, or a series comprising a combination of any two or more of those elements, that is generated by an ADI or licensed credit provider after the successful completion of a transaction using a specified financial account held with that entity.

*Note* Several other words and expressions used in this Determination are defined in the Act, including the following for example:

- ACMA (see section 7);
- carriage service (see section 7);
- carriage service provider (see section 87);
- communications (see section 7);
- customer equipment (see section 21);
- emergency call service (see section 7);
- facility (see section 7);
- public mobile telecommunications service (see section 32);
- service provider (see section 86);
- telecommunications network (see section 7).

## **1.6 References to carriage service provider**

In this Determination, a reference to a carriage service provider:

- (a) obtaining information from a customer;
- (b) verifying the identity of a customer; or
- (c) activating or deactivating a prepaid mobile carriage service;

includes a reference to an authorised party doing those things for, or on behalf of, the carriage service provider.

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**1.7 References to other instruments**

In this Determination, unless the contrary intention appears:

- (a) a reference to any other legislative instrument is a reference to that other legislative instrument as in force from time to time; and
- (b) a reference to any other kind of instrument is a reference to that other instrument as in force from time to time.

*Note 1* For references to Commonwealth Acts, see section 589 of the *Telecommunications Act 1997* and section 10 of the *Acts Interpretation Act 1901*; and see also subsection 13(1) of the *Legislation Act 2003* for the application of the *Acts Interpretation Act 1901* to legislative instruments.

*Note 2* All Commonwealth Acts and legislative instruments are registered on the Federal Register of Legislation.

**1.8 References to category A and category B documents**

In this Determination:

- (a) a category A document means a document mentioned in Part 1 of Table 1 below;
- (b) a category B document means a document mentioned in Part 2 of Table 1 below.

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**Table 1 – Category A documents and Category B documents**


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**Part 1 – Category A documents**

Item	Description of document
1	An identification card issued in the name of the customer by a tertiary education institution.
2	A licence or permit issued in the name of the customer under a Commonwealth, State or Territory law.
3	A passport issued in the name of the customer.
4	A statement issued under a Commonwealth, State or Territory law to the effect that the customer is entitled to receive a financial benefit.
5	A birth certificate: <ul style="list-style-type: none"> <li>(a) in the name of the customer; or</li> <li>(b) in the former name of the customer and which is accompanied by evidence that the customer has changed his or her name.</li> </ul>
6	A foreign military ID card. <p><i>Note</i> The customer must show his or her foreign military ID card to the carriage service provider in an access-controlled defence site.</p>
7	Any other document that is recognised as evidence of identity under a Commonwealth, State or Territory law. <p><i>Example</i> A Keypass card issued by the Australian Postal Corporation, or a photo card or proof of age card issued under a State or Territory law.</p>



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**Part 2 – Category B documents**

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<b>Item</b>	<b>Description of document</b>
1	A credit card or debit card showing the name of the customer.
2	A Medicare card issued in the name of the customer.
3	A passbook for a specified financial account in the name of the customer.
4	A statement of account for a post-paid carriage service issued in the previous 12 months, showing the same name and address given by the customer under section 4.3.
5	A rates statement issued in the previous 12 months, showing the same name and address given by the customer under section 4.3.

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## **Part 2**                      **Objects and application of Determination**

### **2.1**            **Objects of Determination**

The objects of the Determination are to:

- (a) assist law enforcement agencies to identify customers in relation to prepaid mobile carriage services by ensuring that carriage service providers:
  - (i) obtain and record specified information about those persons; and
  - (ii) if necessary, verify the identity of those persons;
- (b) protect the privacy of individuals by ensuring that carriage service providers obtain, record and keep only the minimum amount of information that is reasonably necessary to achieve the object described in paragraph (a); and
- (c) provide carriage service providers with a range of methods which can be used to verify the identity of customers.

*Note 1* Under subsection 313(3) of the Act, carriage service providers must provide agencies with such help as is reasonably necessary for the following purposes:

- enforcing the criminal law and laws imposing pecuniary penalties;
- assisting the enforcement of the criminal laws in force in a foreign country;
- protecting the public revenue; and
- safeguarding national security.

*Note 2* Under Part 14 of the Act, the ACMA and carriage service providers must do their best to prevent telecommunications networks and facilities from being used in, or in relation to, the commission of offences against the laws of the Commonwealth or of the States or Territories. The rules set out in this Determination are intended to minimise the risk of telecommunications networks and facilities being used in, or in relation to, the commission of offences.

### **2.2**            **Application of Determination**

- (1) Subject to subsection (2), this Determination sets out the rules that apply to carriage service providers in relation to the supply of prepaid mobile carriage services.
- (2) However, the rules set out in this Determination do not apply to a carriage service provider in relation to a supply of a prepaid mobile carriage service to a person:
  - (a) if the carriage service provider previously supplied the prepaid mobile carriage service to the person; and
  - (b) if, in relation to the previous supply, the carriage service provider complied with the requirements set out in:
    - (i) this Determination;

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- (ii) the *Telecommunications (Conditions for Allocation of Numbers) Determination 1997*;
  - (iii) the *Telecommunications (Service Provider – Identity Checks for Pre-paid Carriage Services) Determination 1997*;
  - (iv) the *Telecommunications (Service Provider – Identity Checks for Pre-paid Public Mobile Telecommunications Services) Determination 2000*; or
  - (v) the *Telecommunications (Service Provider – Identity Checks for Pre-paid Public Mobile Telecommunications Services) Determination 2013*; and
- (c) the prepaid mobile carriage service has not been deactivated.

*Note* An example includes a supply of a prepaid mobile carriage service by a carriage service provider to a person requiring the recharging of a service that has not since been deactivated, where:

- the carriage service provider previously supplied the service to the person; and
- the carriage service provider complied with the applicable requirements regarding information collection and identity verification in relation to that previous supply.

**2.3 Requirements that must be satisfied before service is activated**

- (1) Subject to subsection (2), a carriage service provider who supplies a prepaid mobile carriage service to a person must not activate the service unless the carriage service provider has complied with:
- (a) the rules set out in Part 4, which require the carriage service provider to obtain certain identifying information from, and verify the identity of, the customer of the service; or
  - (b) an approved compliance plan.
- (2) The rule in subsection (1) does not apply to the extent that:
- (a) an exemption provided by Part 3 in relation to the supply of the prepaid mobile carriage service applies; or
  - (b) subsection 4.2(2) applies in relation to the prepaid mobile carriage service.

**2.4 Obligations when using an authorised party**

- (1) A carriage service provider must comply with this section if it uses an authorised party to:
- (a) sell a prepaid mobile carriage service for, or on behalf of, the carriage service provider; or
  - (b) invite a person to use a prepaid mobile carriage service at no charge to that person for, or on behalf of, the carriage service provider.
- (2) The carriage service provider must ensure that the authorised party acts in a manner that enables the carriage service provider to comply with its obligations under this Determination.

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*Note* For example, if a carriage service provider authorises a retailer to sell prepaid mobile carriage services and the carriage service provider wishes to comply with Part 4 in relation to the supply, the carriage service provider must ensure that the retailer obtains the necessary information from, and verifies the identity of, the customer to enable the carriage service provider to comply with its obligations under Part 4.

- (3) In addition to subsection (2), the carriage service provider must not engage in conduct where:
- (a) the authorised party:
    - (i) sells the service to another person (a ***third party***) for, or on behalf of, the carriage service provider; or
    - (ii) invites a third party to use the service at no charge to the third party for, or on behalf of, the carriage service provider; and
  - (b) neither the carriage service provider nor the authorised party:
    - (i) obtains the necessary information from, and verifies the identity of, the third party in order for the carriage service provider to comply with its obligations under Part 4; or
    - (ii) takes such steps as are specified in an approved compliance plan in relation to obtaining information from, and verifying the identity of, the third party; and
  - (c) the carriage service provider or the authorised party acting on the provider's behalf, activates the service.

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## Part 3 Exemptions from rules

### 3.1 Supplying prepaid mobile carriage services during emergencies

- (1) This section applies to a carriage service provider if the carriage service provider proposes to supply a prepaid mobile carriage service to an emergency-affected individual.
- (2) The carriage service provider is exempt from complying with section 2.3 in relation to the supply of a prepaid mobile carriage service if:
  - (a) the carriage service provider distributes end-user equipment to:
    - (i) a person who the carriage service provider reasonably believes to be an emergency-affected individual;
    - (ii) an emergency assistance organisation on the condition that:
      - (A) the end-user equipment is to be provided to a person who, in the reasonable belief of the emergency assistance organisation, is an emergency-affected individual; and
      - (B) the emergency assistance organisation obtains and records the name and residential address of the emergency-affected individual unless it is not reasonably practicable to do so; or
    - (iii) an authorised party on the condition that:
      - (A) the end-user equipment is to be provided to a person who, in the reasonable belief of the authorised party, is an emergency-affected individual; and
      - (B) the authorised party obtains and records the name and residential address of the emergency-affected individual unless it is not reasonably practicable to do so; and
  - (b) the carriage service provider:
    - (i) in relation to a distribution made under subparagraph (a)(i) – obtains the name and residential address of the emergency-affected individual unless it is not reasonably practicable to do so;
    - (ii) in relation to a distribution made under subparagraph (a)(ii) – obtains the name and business address of the emergency assistance organisation and, if obtained by the emergency assistance organisation, the name and residential address of the emergency-affected individual; or
    - (iii) in relation to a distribution made under subparagraph (a)(iii) – obtains the name and business address of the authorised party and, if obtained by the authorised party, the name and residential address of the emergency-affected individual; and
  - (c) the prepaid mobile carriage service, once activated, can only remain activated for a maximum period of 30 days unless a longer period is approved in writing by the ACMA.

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- (3) An approval by the ACMA under paragraph (2)(c) may apply to an individual prepaid mobile carriage service, or to a class of prepaid mobile carriage services.

*Note* A decision regarding an approval under paragraph 3.1(2)(c) may be reviewed by the Administrative Appeals Tribunal after a process of internal reconsideration by the ACMA under Part 29 of the *Telecommunications Act 1997*.

- (4) In this section:

**emergency** means an actual or imminent event (such as fire, flood, storm, earthquake, explosion or terrorist act) that:

- (a) causes widespread disruption to a community; and
- (b) requires a significant and coordinated response.

**emergency-affected individual** means an individual who is unable to inhabit or access their principal place of residence as a result of an emergency.

**emergency assistance organisation** means an entity, registered on the Australian Charities and Not-for-profits Commission register, that provides assistance and relief support in the aftermath of an emergency to an emergency-affected individual.

### **3.2 Supplying prepaid mobile carriage services to family violence-affected individuals**

- (1) This section applies to a carriage service provider if the carriage service provider proposes to supply a prepaid mobile carriage service to a family violence-affected individual.
- (2) The carriage service provider is exempt from complying with section 2.3 in relation to the supply of a prepaid mobile carriage service if:
  - (a) the carriage service provider distributes end-user equipment to a family violence assistance organisation on the condition that:
    - (i) the end-user equipment is to be provided to a person who, in the reasonable belief of the family violence assistance organisation, is a family violence-affected individual; and
    - (ii) the family violence assistance organisation obtains and records the name and residential address of the family violence-affected individual unless it is not reasonably practicable to do so; and
  - (b) the carriage service provider, in relation to a distribution made under paragraph (a), obtains the name and business address of the family violence assistance organisation and, if obtained by the family violence assistance organisation, the name and residential address of the family violence-affected individual; and
  - (c) the prepaid mobile carriage service, once activated, can only remain activated for a maximum period of 30 days unless a longer period is approved in writing by the ACMA.
- (3) An approval by the ACMA under paragraph (2)(c) may apply to an individual prepaid mobile carriage service, or to a class of prepaid mobile

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carriage services.

*Note* A decision regarding an approval under paragraph 3.2(2)(c) may be reviewed by the Administrative Appeals Tribunal after a process of internal reconsideration by the ACMA under Part 29 of the *Telecommunications Act 1997*.

(4) In this section:

***family violence*** has the same meaning as in section 4AB of the *Family Law Act 1975*.

***family violence-affected individual*** means an individual who has been affected by family violence and, as a result, is unable or unwilling to inhabit or access their principal place of residence.

***family violence assistance organisation*** means an entity, registered on the Australian Charities and Not-for-profits Commission register, that provides assistance and support in the aftermath of family violence to a family violence-affected individual.

**Section 4.1**

## **Part 4 Rules for obtaining information and verifying the identity of customers**

### **4.1 Application of Part 4**

This Part sets out the rules with which a carriage service provider must comply in relation to obtaining identifying information from, and verifying the identity of, a customer of a prepaid mobile carriage service for the purposes of paragraph 2.3(1)(a).

### **4.2 Requirements to be satisfied before service is activated**

- (1) Subject to subsection (2), the carriage service provider must not activate the prepaid mobile carriage service unless the provider has:
  - (a) obtained information from the customer in accordance with section 4.3; and
  - (b) verified the identity of the customer in accordance with section 4.4 or 4.5, whichever is applicable.
- (2) The rule in subsection (1) does not apply where:
  - (a) the carriage service provider has activated the prepaid mobile carriage service at the same time as, or immediately before, the provider receives confirmation that the service activator's specified financial account is active in accordance with paragraph (2)(c) and subitem (4) of item 4 of Schedule 1; or
  - (b) the carriage service provider has temporarily activated the prepaid mobile carriage service in accordance with paragraph (2)(c) of item 5 of Schedule 1.

### **4.3 Information to be obtained from the customer**

The carriage service provider must obtain the information specified in Table 2 below from the customer of a prepaid mobile carriage service:

**Table 2 – Kind of information to be obtained**

<b>Item</b>	<b>Topic</b>	<b>Description of information</b>
1	Information about a customer who is a purchaser	<p>The following:</p> <ol style="list-style-type: none"> <li>(a) the name of the purchaser;</li> <li>(b) the number of other activated prepaid mobile carriage services (if any) supplied to the purchaser;</li> <li>(c) if the purchaser is seeking to purchase the service on behalf of an entity, the name and business address of the entity; and</li> <li>(d) if the purchaser is not seeking to purchase the service on behalf of an entity, the residential address of the purchaser.</li> </ol>



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2	Information about a customer who is a service activator	The following: <ul style="list-style-type: none"> <li>(a) the name and date of birth of the service activator;</li> <li>(b) if the service activator is seeking to activate the service on behalf of an entity, the name and business address of the entity; and</li> <li>(c) if the service activator is not seeking to activate the service on behalf of an entity, the residential address of the service activator.</li> </ul>
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#### 4.4 Verification of the identity of a customer who is a purchaser

- (1) This section applies to the carriage service provider if the customer is a purchaser.
- (2) The carriage service provider must verify the identity of the purchaser in accordance with the Table 3 below and subsection (3).

**Table 3 – Verification of the identify of purchasers**

Item	Circumstances	Verification method
1	Activation of the prepaid mobile carriage service will not result in the purchaser having 5 or more activated prepaid mobile carriage services and the purchaser offers to pay for the service otherwise than by credit card or debit card.	<p>The carriage service provider must verify the identity of the purchaser by seeing:</p> <ul style="list-style-type: none"> <li>(a) 1 category A document identifying the purchaser; or</li> <li>(b) 2 category B documents, each of a different kind, identifying the purchaser.</li> </ul> <p><i>Note</i> If:</p> <ul style="list-style-type: none"> <li>(a) activation of the prepaid mobile carriage service will not result in the purchaser having 5 or more activated prepaid mobile carriage services; and</li> <li>(b) the purchaser offers to pay for the service using a credit card or debit card,</li> </ul> <p>the carriage service provider is not required to take any further steps in relation to the purchaser.</p>
2	Activation of the prepaid mobile carriage service will result in the purchaser having 5 or more activated prepaid mobile carriage services.	<p>The carriage service provider must verify the identity of the purchaser by seeing:</p> <ul style="list-style-type: none"> <li>(a) 2 category A documents, each of a different kind, identifying the purchaser; or</li> <li>(b) 1 category A document and 2 category B documents, each of a different kind, identifying the purchaser.</li> </ul>

- (3) For the purposes of items 1 and 2 of Table 3 in subsection (2):
  - (a) if a document shown to the carriage service provider includes an expiry date, the carriage service provider must be satisfied that the document has not expired; and

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- (b) if a category A document is a foreign military ID card, the purchaser must show the document to the carriage service provider in an access-controlled defence site.

**4.5 Verification of the identity of a customer who is a service activator**

- (1) This section applies to the carriage service provider if the customer is a service activator.
- (2) The carriage service provider must verify the identity of the service activator using an approved method of identity verification specified in column B of Schedule 1.

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## **Part 5                    Alternative methods for obtaining information and verifying the identity of customers**

### **5.1            Application of Part 5**

This Part sets out the requirements for the approval and amendment of an approved compliance plan for the purposes of paragraph 2.3(1)(b) and the circumstances in which an approved compliance plan may be amended or revoked.

### **5.2            Applications from carriage service providers**

A carriage service provider may apply to the ACMA for approval of:

- (a) a CSP plan; or
- (b) an amendment of an approved CSP plan.

### **5.3            Applications from a group of carriage service providers**

A group of carriage service providers may apply to the ACMA for approval of:

- (a) a joint plan; or
- (b) an amendment of an approved joint plan.

### **5.4            Form of application**

An application under section 5.2 or 5.3 must:

- (a) be in writing;
- (b) for approval of a compliance plan –
  - (i) specify the carriage service provider or providers to whom the plan applies; and
  - (ii) describe:
    - (A) the prepaid mobile carriage services to be covered by the plan;
    - (B) the kind of sales and distribution channels for the services to be covered by the plan;
    - (C) the proposed arrangements for obtaining the information mentioned in items 1 and 2 of Table 2 at section 4.3 about the customer; and
    - (D) the proposed arrangements for verifying the identity of the customer; and
- (c) for approval of an amendment of an approved compliance plan – clearly describe the nature and scope of the proposed amendments.

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**Section 5.5**

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**5.5 Approval of compliance plans**

- (1) If the ACMA receives an application from:
  - (a) a carriage service provider under paragraph 5.2(a) for approval of a CSP plan; or
  - (b) a group of carriage service providers under paragraph 5.3(a) for approval of a joint plan,the ACMA must decide to approve or not approve the compliance plan as the case may be.
- (2) The ACMA must consider the following matters in deciding whether to approve a compliance plan:
  - (a) the written views of the Communications Access Co-ordinator on whether the compliance plan will satisfy the information needs of law enforcement agencies; and
  - (b) whether the compliance plan meets the objects of this Determination in section 2.1.

*Note* A decision under this section may be reviewed by the Administrative Appeals Tribunal after a process of internal reconsideration by the ACMA under Part 29 of the *Telecommunications Act 1997*.

**5.6 Approval of amendment of approved compliance plan**

- (1) If the ACMA receives an application from:
  - (a) a carriage service provider under paragraph 5.2(b) for approval of an amendment of an approved CSP plan; or
  - (b) a group of carriage service providers under paragraph 5.3(b) for approval of an amendment of an approved joint plan,the ACMA must decide whether the proposed amendment would result in a significant change to the approved compliance plan.
- (2) If the ACMA decides under subsection (1) that the proposed amendment would not result in a significant change to the approved compliance plan, the ACMA must approve the proposed amendment.
- (3) If the ACMA decides under subsection (1) that the proposed amendment would result in a significant change to the relevant approved compliance plan, the ACMA must:
  - (a) consult the Communications Access Co-ordinator about whether the approved compliance plan as amended (the ***amended approved compliance plan***) will satisfy the information needs of law enforcement agencies; and
  - (b) decide whether to approve or not approve the amended approved compliance plan.

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- (4) In making a decision under paragraph (3)(b), the ACMA must consider the matters mentioned in subsection 5.5(2) as if a reference in that subsection to the compliance plan is a reference to the amended approved compliance plan.

*Note* A decision under this section may be reviewed by the Administrative Appeals Tribunal after a process of internal reconsideration by the ACMA under Part 29 of the *Telecommunications Act 1997*.

### **5.7 Requests for further information and timeframes for making decisions**

- (1) If the ACMA requires further information about an application made under section 5.2 or 5.3, the ACMA may ask the carriage service provider or the group of carriage service providers as the case may be, in writing, for the information.
- (2) The ACMA must make a decision to approve or not approve:
- (a) a compliance plan under paragraph 5.5(1); or
  - (b) an amendment to an approved compliance plan under paragraph 5.6(3)(b);
- within 1 month after the later of:
- (c) receiving the the written views of the Communications Access Co-ordinator; and
  - (d) if the ACMA requests further information from the applicant under subsection (1), receiving the further information.
- (3) If the ACMA fails to make a decision under subsection 5.5(1) or paragraph 5.6(3)(b) within the period specified in subsection (2), the ACMA is taken to have not approved the compliance plan or amendment.

### **5.8 Revocation of approved compliance plans**

- (1) This section sets out the circumstances in which an approved compliance plan may be revoked.

*Voluntary revocation*

- (2) If:
- (a) a carriage service provider to whom an approved CSP plan applies; or
  - (b) a group of carriage service providers to whom an approved joint plan applies,
- gives written notice to the ACMA of revocation of the approved compliance plan, the plan is taken to be revoked on the later of:
- (c) the ACMA receiving the notice; and
  - (d) the date of revocation (if any) specified in the notice.

*Revocation of approved compliance plan by the ACMA*

- (3) If the ACMA is satisfied, on reasonable grounds, that:

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- (a) a carriage service provider has not complied with an approved CSP plan to a significant extent; or
  - (b) one or more carriage service providers have not complied with an approved joint plan to a significant extent,
- the ACMA must give the carriage service provider or providers, as the case may be, written notice of the ACMA's intention to revoke the approved compliance plan in relation to the provider or providers.
- (4) A notice under subsection (3) must include:
    - (a) the grounds mentioned in that subsection; and
    - (b) a statement setting out the effect of subsections (5) to (9).
  - (5) A carriage service provider that receives a notice under subsection (3) may, within 21 days after the date of the notice, give the ACMA a written notice objecting to the proposed revocation of the approved compliance plan (an **objection notice**).
  - (6) An objection notice under subsection (5) must include the grounds on which the carriage service provider objects to the proposed revocation.
  - (7) If the ACMA requires further information about an objection notice under subsection (5), the ACMA may ask the carriage service provider, in writing within 21 days after receiving the objection notice, for the information.
  - (8) If a carriage service provider receives a request for information under subsection (7), the carriage service provider must give the information to the ACMA within 21 days after the date of the request.
  - (9) The ACMA must decide to revoke or not revoke the approved compliance plan insofar as it relates to a particular provider or providers as soon as practicable after the later of:
    - (a) the end of the period in which the ACMA could have asked the carriage service provider or providers for further information in relation to an objection notice given to the ACMA under subsection (5); and
    - (b) if the ACMA requires further information, the end of the period in which the carriage service provider or providers must give the information to the ACMA under subsection (7).
  - (10) If the ACMA decides to revoke an approved compliance plan under subsection (9), the revocation takes effect on the date specified in the notice of decision given to the carriage service provider or providers.

*Note* A decision under this section may be reviewed by the Administrative Appeals Tribunal after a process of internal reconsideration by the ACMA under Part 29 of the *Telecommunications Act 1997*.

### **5.9 Notice of decisions by the ACMA**

- (1) If the ACMA makes a decision under:
  - (a) subsection 5.5(1);
  - (b) paragraph 5.6(3)(b); or

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- (c) subsection 5.8(9),  
the ACMA must give written notice of the decision to the carriage service provider or providers affected by the decision as soon as practicable after making the decision.
- (2) If a written notice referred to in subsection (1) relates to a decision to:
  - (a) not approve a compliance plan under subsection 5.5(1);
  - (b) not approve an amendment of an approved compliance plan under paragraph 5.6(3)(b); or
  - (c) revoke an approved compliance plan under subsection 5.8(9),  
the ACMA must set out the reasons for the decision in the notice.

**Section 6.1**

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**Part 6 Records****6.1 Carriage service provider to keep records of prepaid mobile carriage services supplied**

- (1) A carriage service provider must keep records in relation to each prepaid mobile carriage service supplied by the carriage service provider sufficient to enable the carriage service provider's compliance with this Determination to be readily ascertained.
- (2) The carriage service provider must keep the records for as long as the service is activated.

**6.2 Records for certain transactions**

- (1) This section applies in relation to a prepaid mobile carriage service if the carriage service provider complied with section 4.4 in relation to a purchaser and the prepaid mobile carriage service was purchased using a credit card or debit card.
- (2) The carriage service provider must keep records for the prepaid mobile carriage service that link the carriage service number of the service to the credit card or debit card referred to in subsection (1) in relation to the service.

*Note* For example, a transaction code generated in relation to the purchase of a prepaid mobile carriage service using a credit card or debit card could be linked to the carriage service number of the service for the purpose of keeping a record required by subsection 6.2(2).

**6.3 Record of compliance arrangements**

A carriage service provider who supplies a prepaid mobile carriage service must keep a written description of the arrangements that it has in place to comply with this Determination.

**6.4 Restrictions on the recording and keeping of certain information**

- (1) Subject to subsections (2) and (3), a carriage service provider must not, in connection with a requirement imposed by this Determination, record and keep:
  - (a) the identifying number of a government document; or
  - (b) a category A document or category B document.
- (2) Subsection (1) does not prohibit the recording and keeping of information or a document if that recording and keeping is required or authorised by or under a law.

*Note* Under Part 5-1A of the *Telecommunications (Interception and Access) Act 1979* carriage service providers have an obligation to keep certain information for a specified period of time and to ensure the confidentiality of that information by requiring that the



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information be encrypted and protected from unauthorised interference or unauthorised access.

- (3) Subsection (1) does not prohibit the recording and keeping of the identifying number of a government document where:
- (a) the carriage service provider records the identifying number of a government document for a permitted purpose; and
  - (b) the carriage service provider records the information only for such time as is reasonably necessary for the permitted purpose; and
  - (c) immediately after the carriage service provider verifies the service activator's identity, the carriage service provider destroys the number; and
  - (d) the recording is not otherwise prohibited by law.

*Example* If a customer has unsuccessfully attempted to verify their identity online using a government online verification service, a carriage service provider may use the identifying number of that customer's government document to assist that customer to verify his or her identity.

- (4) A carriage service provider must not copy or reproduce any document that contains the information which must not be recorded and kept because of subsection (1).

*Note* A carriage service provider's arrangements for recording and handling personal information must comply with Commonwealth privacy laws where applicable.

- (5) In this section:

***permitted purpose*** means:

- (a) the purpose of verifying the identity of a service activator in accordance with section 4.5; or
- (b) any other purpose that is ancillary or incidental to the provider's obligation to verify the identity of a service activator in accordance with section 4.5.

## Schedule 1 Approved methods for verification of the identity of a customer who is a service activator

(section 4.5)

Column A Column B

Item Approved method of identity verification

1 “Government online verification service”

- (1) A carriage service provider may verify the identity of a service activator using a government online verification service.
- (2) The carriage service provider is only taken to have verified the identity of the service activator in accordance with subitem (1) if:
  - (a) the service activator gives the carriage service provider:
    - (i) the identifying number of the government document;
    - (ii) information, identifying the State or Territory that issued the government document, or confirming that the government document was issued by the Commonwealth; and
    - (iii) if required, any dates or other information recorded on the government document;
  - (b) the information given is verified on a government online verification service; and
  - (c) the description of the method of identity verification is recorded by the carriage service provider as “government online verification service”.

*Note* The information provided by the service activator, in relation to a government document, is matched against the databases held by the agency that issued the document and is either accepted or rejected as matched or not. The service does not result in the disclosure of any other information held by the agency.

2 “Existing post-paid account”

- (1) A carriage service provider may verify the identity of a service activator by confirming the details of the service activator’s existing account for a post-paid carriage service with the carriage service provider.
- (2) The carriage service provider is only taken to have verified the identity of the service activator in accordance with subitem (1) if:
  - (a) the service activator gives the carriage service provider details of the service activator’s account (for example, the account number or carriage service number);
  - (b) the service activator demonstrates to the carriage service provider that the service activator is the account holder (for example, by giving a valid password for the account to the carriage service provider); and
  - (c) the description of the method of identity verification is recorded by the carriage service provider as “existing post-paid account”.

Column A	Column B
Item	Approved method of identity verification
3	<p>“White listed email service”</p> <p>(1) A carriage service provider may verify the identity of a service activator by confirming that the service activator holds an email address ending with “.edu.au” or “.gov.au”.</p> <p>(2) The carriage service provider is only taken to have verified the identity of the service activator in accordance with subitem (1) if:</p> <p>(a) the service activator gives the carriage service provider an email address ending with “.edu.au” or “.gov.au”;</p> <p>(b) the carriage service provider sends an email to the email address containing instructions for the service activator to follow to determine if the email account is active;</p> <p>(c) the service activator follows the instructions which confirms that the email account is active; and</p> <p>(d) the description of the method of identity verification is recorded by the carriage service provider as “white listed email service”.</p>
4	<p>“Real-time financial transaction”</p> <p>(1) A carriage service provider may verify the identity of a service activator by making a real-time financial transaction in relation to an existing specified financial account held by the service activator.</p> <p>(2) Subject to subitems (3) and (4), the carriage service provider is only taken to have verified the identity of a service activator in accordance with subitem (1) if:</p> <p>(a) the service activator gives the carriage service provider information identifying the service activator as the holder of an existing specified financial account;</p> <p>(b) the carriage service provider, using the details of the service activator’s account, makes a real-time financial transaction in relation to the account to determine if the account is active;</p> <p>(c) the carriage service provider receives a transaction code confirming that the account is active; and</p> <p>(d) the description of the method of identity verification is recorded by the carriage service provider as “real-time financial transaction”.</p> <p>(3) For the purposes of paragraph (2)(b), the carriage service provider must complete the real-time financial transaction in a way that does not financially disadvantage the service activator.</p> <p>(4) If, in connection with subitem (2), the service activator and the carriage service provider agree to implement a direct debit arrangement using the service activator’s account, nothing prevents the carriage service provider from activating the prepaid mobile carriage service at the same time as, or immediately before, the provider receives confirmation that the service activator’s account is active.</p> <p>(5) In this item:</p> <p><b><i>real-time financial transaction</i></b> means a financial transaction for which</p>

Column A	Column B
Item	Approved method of identity verification
	the carriage service provider can confirm at the time of the making of the transaction that the service activator can complete the purchase of the desired goods or services by using the specified financial account.
5	<p>“Time-delayed financial transaction”</p> <p>(1) A carriage service provider may verify the identity of a service activator by making a time-delayed financial transaction in relation to an existing specified financial account held by the service activator.</p> <p>(2) Subject to subitems (3) and (4), the carriage service provider is only taken to have verified the identity of a service activator in accordance with subitem (1) if:</p> <p>(a) the service activator gives the carriage service provider information identifying the service activator as the holder of an existing specified financial account;</p> <p>(b) the carriage service provider, using the details of the service activator’s account, makes a time-delayed financial transaction in relation to the account, to determine if the account is active;</p> <p>(c) the carriage service provider temporarily activates only one prepaid mobile carriage service for the service activator and informs the service activator at the time of activation that the activation will be temporary;</p> <p>(d) within two business days of making the time-delayed financial transaction under paragraph (b), the carriage service provider confirms that the account is active because the transaction has not been rejected or refunded; and</p> <p>(e) the description of the method of identity verification is recorded by the carriage service provider as “time-delayed financial transaction”.</p> <p>(3) For the purposes of paragraph (2)(b), the carriage service provider must make the time-delayed financial transaction in a way that does not financially disadvantage the service activator.</p> <p>(4) If a carriage service provider does not confirm within two business days that the service activator’s account is active under paragraph (2)(d), the carriage service provider is:</p> <p>(a) taken to have been unable to verify the identity of the service activator; and</p> <p>(b) must deactivate the temporarily activated prepaid mobile carriage service within one calendar day after the two business day period referred to in paragraph (2)(d) has passed.</p> <p>(5) In this item:</p> <p><b><i>Time-delayed financial transaction</i></b> means a financial transaction by way of account transfer and for which the carriage service provider is unable to confirm, at the time of the making of the transaction, that the service activator is able to complete the purchase of the desired goods or services by using the specified financial account.</p>
6	<p>“Existing eligible prepaid (other) account” (no direct debit arrangement in place)</p> <p>(1) A carriage service provider may verify the identity of a service activator by</p>

Column A	Column B
Item	Approved method of identity verification
	<p>confirming the details of the service activator's existing eligible prepaid (other) account with the carriage service provider.</p> <p>(2) The carriage service provider is only taken to have verified the identity of the service activator in accordance with subitem (1) if:</p> <p>(a) the service activator gives the carriage service provider details of the service activator's existing eligible prepaid (other) account with the carriage service provider (for example, the account number or carriage service number);</p> <p>(b) the service activator demonstrates to the carriage service provider that the service activator is the account holder (for example, by giving a valid password for the account to the carriage service provider);</p> <p>(c) the carriage service provider confirms that the activation of the service will not result in the service activator having 5 or more prepaid mobile carriage services activated using the method of identity verification described in this item; and</p> <p>(d) the carriage service provider records the description of the method of identity verification as "eligible prepaid (other) account".</p>
7	<p>"Existing eligible prepaid (direct debit) account" (direct debit arrangement in place)</p> <p>(1) A carriage service provider may verify the identity of a service activator by confirming the details of the service activator's existing eligible prepaid (direct debit) account with the carriage service provider.</p> <p>(2) The carriage service provider is only taken to have verified the identity of the service activator in accordance with subitem (1) if:</p> <p>(a) the service activator gives the carriage service provider details of the service activator's existing eligible prepaid (direct debit) account with the carriage service provider (for example, the account number or carriage service number);</p> <p>(b) the service activator demonstrates to the carriage service provider that the service activator is the account holder (for example, by giving a valid password for the account to the carriage service provider); and</p> <p>(c) the carriage service provider records the description of the method of identity verification as "eligible prepaid (direct debit) account".</p>

Column A	Column B
Item	Approved method of identity verification
8	<p>“Visual identity document check”</p> <ol style="list-style-type: none"> <li>(1) A carriage service provider may verify the identity of a service activator by conducting a visual identity document check in relation to the service activator.</li> <li>(2) The carriage service provider is only taken to have verified the identity of a service activator in accordance with subitem (1) if: <ol style="list-style-type: none"> <li>(a) the carriage service provider confirms whether the activation of the service will result in the service activator having 5 or more activated prepaid mobile carriage services;</li> <li>(b) the service activator complies with the visual identity document check requirement described in subitem (3);</li> <li>(c) the carriage service provider is satisfied that if a document shown to it by the service activator includes an expiry date, the document has not expired;</li> <li>(d) the carriage service provider immediately activates the prepaid mobile carriage service; and</li> <li>(e) the description of the method of identity verification is recorded by the carriage service provider as “visual identity document check”.</li> </ol> </li> <li>(3) For the purposes of paragraph (2)(b), the service activator complies with the visual identity document check requirement by complying with either subitem (4) or (5), whichever is applicable.</li> <li>(4) Subject to subitem (6), if the activation of the service will not result in the service activator having 5 or more activated prepaid mobile carriage services, the service activator must show the carriage service provider either: <ol style="list-style-type: none"> <li>(a) 1 category A document identifying the service activator; or</li> <li>(b) 2 category B documents, each of a different kind, identifying the service activator.</li> </ol> </li> <li>(5) Subject to subitem (6), if the activation of the service will result in the service activator having 5 or more activated prepaid mobile carriage services, the service activator must show the carriage service provider either: <ol style="list-style-type: none"> <li>(a) 2 category A documents, each of a different kind, identifying the service activator; or</li> <li>(b) 1 category A and 2 category B documents, each of a different kind, identifying the service activator.</li> </ol> </li> <li>(6) If a category A document described in subitem (4) or (5) is a foreign military ID card, the service activator must show the document to the carriage service provider in an access-controlled defence site.</li> </ol>