



Do Not Call Register (Access Fees) Determination 2017

The Australian Communications and Media Authority makes this Determination under subsection 21(1) of the *Do Not Call Register Act 2006*.

Dated: 29 June 2017

James Cameron
[signed]
Member

Jennifer McNeill
[signed]
~~Member~~/General Manager

Australian Communications and Media Authority

Part 1—Preliminary

1 Name of Determination

This is the *Do Not Call Register (Access Fees) Determination 2017*.

2 Commencement

This Determination commences:

- (a) on the day after it is registered; or
- (b) at the same time as the *Do Not Call Register (Access to Register) Determination 2017* commences;

whichever is the latter.

Note 1: The Federal Register of Legislation may be accessed at <http://www.legislation.gov.au>.

Note 2: Both the events referred to in paragraphs 2(a) and (b) must occur before this Determination commences.

3 Authority

This Determination is made under subsection 21(1) of the *Do Not Call Register Act 2006*.

4 Repeal of the *Do Not Call Register (Access Fees) Determination 2007*

The *Do Not Call Register (Access Fees) Determination 2007* (F2007L01240) is repealed.

5 Definitions

In this Determination:

access-seeker has the same meaning as in subsection 19(1) of the Act.

access-seeker's registration means the access-seeker's registration referred to in subsection 7(3) of the *Do Not Call Register (Access to Register) Determination 2017*.

ACMA means the Australian Communications and Media Authority.

Act means the *Do Not Call Register Act 2006*.

current subscription means a subscription which has commenced under section 9 and has not expired or been cancelled or suspended.

subscription fee means the component of a fee payable for services provided under subsection 19(2) of the Act that is described as a subscription fee in column 3 of the table in subsection 7(1).

subscription period has the meaning given by section 9.

subscription type has the meaning given by subsection 7(1).

unused numbers means the number of Australian numbers able to be submitted for checking against the Register under a particular subscription during the relevant subscription period, less the number of Australian numbers that have already been submitted for checking against the Register under that subscription during the subscription period.

Note: Other words and phrases used in this Determination are defined in section 4 of the Act, including *contracted service provider* and *Australian number*.

6 References to legislative and other instruments

In this Determination, unless the contrary intention appears:

- (a) a reference to another 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 or writing is a reference to that other instrument or writing as in force from time to time.

Note 1: For references to Commonwealth Acts, see 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.

Part 2— Fees for Access to Register

7 Fees

- (1) For paragraph 21(1)(a) of the Act, the fee for services provided under subsection 19(2) of the Act is comprised of the amount mentioned in the following table for not more than the number of Australian numbers, mentioned for a subscription type, that the access-seeker may submit for checking in a subscription period.

Column 1 Subscription type	Column 2 Maximum number of Australian numbers able to be submitted for checking during a subscription period	Column 3 Subscription fee (\$)
A	500	0
B	20 000	113
C	100 000	525
D	1 000 000	4,540
E	10 000 000	38,310
F	20 000 000	63,850
G	50 000 000	95,775
H	100 000 000	127,700

- (2) For subsection (1):
- a number that is submitted for checking is taken to be an Australian number even if it is not in fact an Australian number; and
 - a number that is submitted for checking more than once is to be counted separately for each time that it is submitted.
- (3) A subscription fee is payable for each subscription for which the access-seeker applies (other than for a type A subscription).

Example 1: An access-seeker that selects subscription types C and D would be required to pay the ACMA or the contracted service provider:

- \$525 for subscription type C; and
- \$4,540 for subscription type D.

Example 2: An access-seeker that selects 2 type C subscriptions would be required to pay the ACMA or the contracted service provider \$525 for each subscription.

Note 1: The subscription fee is exempt from GST under subsection 81-5(1) of the *A New Tax System (Goods and Services Tax) Act 1999*.

Note 2: Subsection 21(6) of the Act provides that a fee is payable to the ACMA on behalf of the Commonwealth.

Note 3: A list of Australian numbers submitted by an access seeker under subsection 19(1) must be equal to, or less than, the number of unused numbers attributable to the access-seeker's current subscription.

8 Subscription types

- (1) An access-seeker may hold one or more subscription types subject to:
 - (a) payment of the subscription fee for each subscription held; and
 - (b) the access-seeker being registered under subsection 7(3) of the *Do Not Call Register (Access to Register) Determination 2017*.

Note 1: Access-seekers may apply for a subscription when registering under subsection 7(3) of the *Do Not Call Register (Access to Register) Determination 2017*.

Note 2: Section 10 of the *Do Not Call Register (Access to Register) Determination 2017* sets out that registrations under subsection 7(3) of the *Do Not Call Register (Access to Register) Determination 2007* current at the commencement of the *Do Not Call Register (Access to Register) Determination 2017* continue to have effect under subsection 7(3) of the *Do Not Call Register (Access to Register) Determination 2017*.

- (2) However:
 - (a) an access-seeker may only hold one subscription type A at a time; and
 - (b) an access-seeker who holds a subscription type A may not hold any other subscription type while that subscription type A is in force.
- (3) If an access-seeker holds two or more subscriptions, for which the subscription periods began on different days:
 - (a) any numbers submitted for checking are taken to have been submitted for the subscription which commenced first in time, up to the maximum number of Australian numbers able to be submitted for that subscription; and
 - (b) any remaining numbers submitted for checking are taken to have been submitted for the other subscription or subscriptions, in order of commencement, up to the maximum number of Australian numbers able to be submitted for that subscription, or each of those subscriptions.
- (4) If an access-seeker:
 - (a) holds a current subscription type A; and
 - (b) purchases an additional subscription type B, or a higher subscription, before the current subscription type A expires;the current subscription type A is cancelled from the time of the purchase of the additional subscription, and any unused numbers from the current subscription type A will not be included in the purchased subscription.
- (5) If an access-seeker:
 - (a) holds a current subscription type B or a higher subscription; and
 - (b) purchases an additional subscription type B, or a higher subscription, before the current subscription expires;any unused numbers from the current subscription will be included in the purchased subscription.
- (6) If an access-seeker:
 - (a) holds a current subscription type A, or a higher subscription; and
 - (b) that subscription expires; and
 - (c) then obtains a subscription type A, or purchases a higher subscription;

any unused numbers from the expired subscription will not be included in any purchased subscription.

9 Subscription period

- (1) The subscription period for an access-seeker who has ordered a type A subscription commences on the day the ACMA, or the contracted service provider on behalf of the ACMA, receives the access-seeker's order for services.
- (2) The subscription period for an access-seeker who has ordered a subscription other than a type A subscription commences on the day the ACMA, or the contracted service provider on behalf of the ACMA, receives the access-seeker's subscription fee, on behalf of the Commonwealth.
- (3) A subscription period for an access-seeker ends 12 months after the day it commences, unless cancelled by the ACMA under subsection 8(4).
- (4) The ACMA may agree that the subscription period for an access-seeker commences on the day the access-seeker agrees to pay the subscription fee, where it is not possible or practical for the subscription period to commence in accordance with subsection (2).

10 Orders for services

- (1) An access-seeker may order a subscription by submitting an order to the ACMA using a method specified by the ACMA.
- (2) The ACMA may cancel an order for a subscription that is not paid for in full within 14 days of the order being submitted.
- (3) The ACMA may specify in writing a method or methods of payment by which a subscription must be paid.

11 Suspensions of registration

- (1) If an access-seeker pays a subscription fee and the payment is subsequently dishonoured the ACMA may suspend the access-seeker's registration.
- (2) If the ACMA suspends an access-seeker's registration under subsection (1) the ACMA may reactivate the access-seeker's registration when the access-seeker pays the subscription fee.
- (3) If an access-seeker's registration is reactivated under subsection (2), the subscription period for any subscriptions held by the access-seeker subject to a suspension will not be affected by the suspension.
- (4) The ACMA may suspend an access-seeker's registration without notice to the access-seeker in exceptional circumstances, including where there is a suspected misuse of an account, potential fraud, or issues with the access-

seeker's account which may affect the operation or security of the Register.

Note: Under subsection 7(3) of the *Do Not Call Register (Access to Register) Determination 2017*, an access-seeker must be registered with the ACMA to be eligible to submit a list of Australian numbers for checking against the register. Suspending the access-seeker's registration will prevent the access-seeker from submitting a list of Australian numbers for checking against the register.

12 Refunds

The ACMA may, on application made by the access-seeker, refund any part of the fee for a service provided under subsection 19(2) of the Act.

Part 3— Savings and Transitional Arrangements

13 Application of Part 3

This Part applies to a subscription held by an access-seeker under the *Do Not Call Register (Access to Register) Determination 2007 (the old Determination)*.

14 Continued effect of subscription under the old Determination

- (1) Subject to subsection (3), a subscription held under the old Determination that is current immediately before the commencement of this Determination continues to be current under this Determination.
- (2) The subscription type applicable to a subscription referred to in subsection (1) is the corresponding subscription type as was held under the old Determination.

Note 1: Subscription types are identified in the old Determination in column 1 of the table in subsection 4(1) of the old Determination.

- (3) For the purposes of subsection 7(1), paragraph 8(3)(a) and section 9, the commencement date for a subscription referred to in subsection (1) is the day that the subscription commenced under the old Determination.
- (4) Current orders for service under section 7 of the old Determination that have not been fulfilled immediately prior to the commencement of this Determination are:
 - (a) to be treated as orders for service under subsection 10(1) of this Determination; and
 - (b) for the purposes of subsection 10(2), considered to have been submitted on the day the order was submitted under the old Determination.
- (5) If a subscription referred to in subsection (1) was subject to a suspension under subsection 8(1) of the old Determination immediately prior to the commencement of this Determination, that suspension continues to have effect as if it were imposed under subsection 11(1) of this Determination.
- (6) If a subscription referred to in subsection (1) was subject to a suspension under subsection 8(4) of the old Determination immediately prior to the commencement of this Determination, that suspension continues to have effect as if it were imposed under subsection 11(4) of this Determination.