



Telecommunications Service Provider (International Mobile Roaming) Determination 2019

The Australian Communications and Media Authority makes the following instrument under subsections 99(1) and 125AA(1) of the *Telecommunications Act 1997*

Dated 17 December 2019

Nerida O'Loughlin
[signed]
Member

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[signed]
Member/~~General Manager~~

Australian Communications and Media Authority

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1 Name

This instrument is the *Telecommunications Service Provider (International Mobile Roaming) Determination 2019*.

2 Commencement

This instrument commences on 1 July 2020.

Note: The Federal Register of Legislation may be accessed free of charge at www.legislation.gov.au.

3 Authority

This instrument is made under subsections 99(1) and 125AA(1) of the *Telecommunications Act 1997*.

4 Definitions

In this instrument:

ACMA means the Australian Communications and Media Authority.

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

AUD means Australian dollars.

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 on a consumer 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 AUD 40,000.

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 a post-paid service, the actual usage of the service 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.

excluded satellite service means a satellite service that may be used by a customer in an overseas location at the same or lesser charge for the same service as in Australia.

flagfall means a charge for establishing a telephone call.

IMR-enabled device means a digital device capable of receiving an IMR service.

IMR service means an international mobile roaming service.

IMR service inclusive plan means a mobile post-paid service plan under which a consumer receives an IMR service which includes an unlimited allowance for calls, SMS, MMS and/or data.

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

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

international mobile roaming service means a carriage service that is not an excluded satellite service and enables a customer to automatically and seamlessly do any or all of the following:

- (a) make, send, access or receive voice calls, SMS or MMS;
- (b) download and upload data,

when travelling overseas outside the normal coverage area without losing the connection.

maximum charge information means:

- (a) in relation to a customer's telecommunications product in an overseas location which is not part of an included value pack or IMR service inclusive plan:
 - (i) the maximum charge in AUD for making a 1-minute call to Australia from the overseas location (including flagfall or any additional charges where applicable);
 - (ii) the maximum charge in AUD for making a 1-minute call to a number within the overseas location (including flagfall or any additional charges where applicable);
 - (iii) the maximum charge in AUD for receiving a 1-minute call within the overseas location (including flagfall or any additional charges where applicable);
 - (iv) the maximum charge in AUD for sending an SMS message to Australia from the overseas location;
 - (v) the maximum charge in AUD for sending an SMS message within the overseas location;
 - (vi) the maximum charge in AUD for receiving an SMS message within the overseas location;

- (vii) the maximum charge in AUD for sending an MMS message to Australia from the overseas location (where applicable);
- (viii) the maximum charge in AUD for sending an MMS message within the overseas location (where applicable);
- (ix) the maximum charge in AUD for receiving an MMS message within the overseas location (where applicable);
- (x) the maximum charge in AUD for using one megabyte of data in the overseas location;
- (b) in relation to a customer's telecommunications product in an overseas location which is part of an included value pack:
 - (i) the maximum value, in AUD, of calls, SMS, MMS and/or data services included in the included value pack;
 - (ii) the information specified in subparagraphs (a)(i)-(x) of this definition for any IMR service which is:
 - (A) not provided to the customer as part of the included value pack on an unlimited basis; or
 - (B) excluded from the included value pack;
- (c) in relation to a customer's telecommunications product in an overseas location which is part of an IMR service inclusive plan, the information specified in subparagraphs (a)(i)-(x) of this definition for any IMR service which is:
 - (i) not provided to the customer as part of the IMR service inclusive plan on an unlimited basis; or
 - (ii) excluded from the IMR service inclusive plan.

MMS means multimedia message service.

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

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.

preferred method of communication means the method of communication that a customer has selected as their preferred method of communication with their CSP and may include, without limitation:

- (a) an SMS message;
- (b) an email communication to a specified email address;
- (c) a notification through the CSP's software application or program which may be downloaded onto a device.

Note: Under subsection 7(8), if a customer has not selected a preferred method of communication with their CSP, the customer is deemed to have selected SMS as their preferred method of communication, unless the customer has a data only plan. In the latter case, the preferred method of communication is deemed to be the method of communication offered by the CSP under paragraph 7(2)(b).

satellite service means a carriage service where customer equipment used in connection with the supply of the service communicates directly with a satellite-based facility.

SMS means short message service.

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.

standard form customer contract means a standard form of agreement which is formulated by a CSP for the purposes of section 479 of the Act.

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 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.

Note: A number of expressions used in this instrument are defined in the Act, including the following:

- (a) Australian number (section 7);
- (b) carriage service (section 7);
- (c) carriage service provider (sections 7 and 87);
- (d) content service (sections 7 and 15);
- (e) customer equipment (sections 7 and 21)
- (f) listed carriage service (sections 7 and 16);
- (g) public mobile telecommunications service (sections 7 and 32); and
- (h) telecommunications network (section 7).

5 Repeal

The instrument that is specified in Schedule 1 to this instrument is repealed.

6 Application

This instrument applies to all CSPs supplying an IMR service.

7 Customers to be offered a preferred method of communication option

- (1) If a CSP supplies an IMR service, the CSP must have available:
 - (a) SMS; and
 - (b) at least one other method of communication capable of being used on an IMR-enabled device which does not support SMS,as a preferred method of communication for receiving notifications about the IMR service.

Note 1: Other methods of communication may include email or a software application or program.

Note 2: Other methods of communication should not include voice calls for IMR-enabled devices incapable of receiving that method of communication.

- (2) If a CSP supplies an IMR service to a customer, the CSP must offer for selection by that customer:
- (a) SMS; or
 - (b) if the customer's service is supplied using a plan that provides for data only, at least one other method of communication capable of being used on an IMR-enabled device which does not support SMS,
- as a preferred method of communication for receiving notifications about the IMR service.
- (3) The preferred method of communication offered under subsection (2) must be offered by the CSP to the customer at the time of:
- (a) entering into a customer contract with the customer which provides for the supply of an IMR service; and
 - (b) any variation of a customer contract to allow for the supply of an IMR service.
- (4) The preferred method of communication referred to in subsection (2) must be offered to a customer for selection in relation to each IMR service of the customer.
- (5) A CSP must allow a customer who has selected a preferred method of communication under subsection (2) to request a change to the preferred method of communication offered under subsection (2) at any time and must action the request as soon as reasonably practicable after the customer requests the change.
- (6) If a charge may be imposed on a customer for accessing a message or notification using a preferred method of communication, the CSP must inform the customer that charges may apply to that preferred method of communication.

Note: Subsections 8(6), 9(6) and 10(6) provide that a CSP must not charge the customer a fee for sending a message or notification under sections 8, 9 and 10 respectively. However, if a customer has selected a preferred method of communication which requires the customer to upload or download data on their IMR-enabled device in order to receive the message or notification, the customer must be informed that the preferred method of communication may be subject to data charges.

- (7) If a customer has:
- (a) selected a preferred method of communication under subsection (2), or
 - (b) requested a change to the preferred method of communication under subsection (5),
- the CSP must, unless otherwise specified in this instrument, communicate notifications about the IMR service with the customer using that method of communication.
- (8) If a customer does not select a preferred method of communication under subsection (2),
- (a) the CSP must, unless paragraph (b) applies, communicate notifications about the IMR service with the customer using SMS; or
 - (b) if the customer's IMR service is supplied using a plan which provides for data-only, the CSP must communicate notifications about the IMR service

with the customer using a method of communication offered under paragraph (2)(b),

as if the customer had selected that method of communication as their preferred method of communication under subsection (2).

8 Mobile network operators to send information about supply of an IMR service

- (1) This section applies to a CSP who is a mobile network operator that uses a carriage service to supply an IMR service to its customer and the customer has activated the IMR service on an IMR-enabled device in an overseas location.
- (2) The CSP must, within 10 minutes of the customer activating the IMR service and using the customer's preferred method of communication, send one or more messages that advise the customer:
 - (a) that:
 - (i) their device has been activated overseas;
 - (ii) there may be delays in receiving usage data and alerts; and
 - (iii) higher charges may apply;
 - (b) of the maximum charge information that applies in relation to the customer's telecommunications product for the overseas location in which the customer has activated an IMR service on the IMR-enabled device; and
 - (c) of the method by which the customer may decline the continued supply of the IMR service at any time while travelling overseas, including (as appropriate) the telephone number or website address by which the method may be accessed.
- (3) If the same maximum charge information in paragraph (2)(b) applies in other overseas locations, the CSP may, within 10 minutes of the customer activating the IMR service and using the customer's preferred method of communication, send a message that advises the customer of the locations that that same maximum charge information also applies to.
- (4) The messages referred to in paragraphs (2)(a), (b) and (c) and subsection (3) may be combined into one or more messages.
- (5) The messages referred to in paragraphs (2)(a), (b) and (c) must be sent each time the customer activates an IMR service:
 - (a) in an overseas location unless the maximum charge information in paragraph (2)(b) is the same as the information sent to the customer within the preceding 14 days; or
 - (b) in a new overseas location unless:
 - (i) the maximum charge information referred to in paragraph (2)(b) is the same as the information sent to the customer relating to another overseas location within the preceding 14 days;
 - (ii) the CSP has sent the message in subsection (3); and
 - (iii) the message referred to the new overseas location.
- (6) A CSP must not charge a fee for sending a message under subsection (2) or (3).

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

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

9 Mobile network operators who supply carriage services to another CSP to send information about supply of an IMR service

- (1) This section applies to a mobile network operator who supplies a carriage service to another CSP (the *second provider*) and the service is used to supply an IMR service to:

- (a) a customer of the second provider; or
- (b) another CSP that supplies an IMR service, to a customer,

and the customer has activated an IMR service on an IMR-enabled device in an overseas location.

Note: In most cases the second provider will be a mobile virtual network operator.

- (2) The mobile network operator must:

- (a) send the customer, within 10 minutes of the customer activating the IMR service, an SMS message in the following terms:

“Warning – you have activated your mobile device overseas. Higher charges may apply. There may be delays in receiving usage data and alerts. Information about charges that apply overseas will be provided to you by your telecommunications provider.”;

- (b) send the second provider notice, within one hour of the customer activating an IMR service, that an IMR service is being supplied to the customer; and
- (c) send the second provider, within one hour of the customer activating an IMR service, the following information:
 - (i) the mobile number of the customer; and
 - (ii) the overseas location in which the customer has activated the IMR service.

- (3) 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, the person who has activated the IMR service 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 subsection (3) to pass the information received under paragraph (2)(b) and (2)(c) along the chain of supply.

- (4) The message in paragraph (2)(a) must be sent each time the customer activates an IMR service in an overseas location, unless a message of that kind was sent to the customer in that location within the preceding 14 days.
- (5) The notification in paragraph (2)(b), and the information referred to in paragraph (2)(c) must be sent each time the customer activates an IMR service in an overseas location unless a notification and the information have been sent to the second provider within the preceding 14 days.

- (6) A CSP must not charge a fee for sending the message in paragraph (2)(a).

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

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

10 Mobile virtual network operators to send information about supply of an IMR service

- (1) This section applies to a CSP who is a mobile virtual network operator that supplies an IMR service to a customer.
- (2) The CSP must, within 10 minutes of receipt of information about a customer's activation of an IMR service in an overseas location under paragraph 9(2)(b) and (c), and using the customer's preferred method of communication, send one or more messages that advise the customer:
 - (a) of the maximum charge information that applies in relation to the customer's telecommunications product for the overseas location in which the customer has activated an IMR service on the IMR-enabled device; and
 - (b) of the method by which the customer may decline the continued supply of the IMR service at any time while travelling overseas, including (as appropriate) the telephone number or website address by which the method may be accessed.
- (3) If the same maximum charge information in paragraph (2)(a) applies in other overseas location, the CSP may, within 10 minutes of receipt of information about a customer's activation of an IMR service, and using the customer's preferred method of communication, send a message that advises the customer of the locations that that same maximum charge information also applies to.
- (4) The messages referred to in paragraphs (2)(a) and (2)(b) and subsection (3) may be combined into one or more messages.
- (5) The messages referred to in paragraphs (2)(a) and (2)(b) must be sent each time the customer activates an IMR service:
 - (a) in an overseas location unless the maximum charge information in paragraph (2)(a) is the same as the information sent to the customer within the preceding 14 days; or
 - (b) in a new overseas location unless:
 - (i) the maximum charge information referred to in paragraph (2)(a) is the same as the information sent to the customer relating to another overseas location within the preceding 14 days;
 - (ii) the CSP has sent the message in subsection (3); and
 - (iii) the message referred to the new overseas location.
- (6) A CSP must not charge a fee for sending a message under subsection (2) or (3).

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

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

11 CSPs to otherwise send 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 an IMR service may be resold through one or more CSPs before it is supplied to the customer. 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 customer.

- (2) If the customer requests a CSP to provide maximum charge information in relation to any overseas location, the CSP must provide that information to the customer within 24 hours of receiving the request
- (3) A CSP must not charge a fee for the provision of the information in subsection (2).

12 CSPs to make available method to decline an IMR service

- (1) A CSP must make available at least one method by which a customer of that CSP may decline the continued supply of an IMR service at any time while travelling overseas.

Note: Customers must be provided with information about the method or methods available – see paragraphs 8(2)(c) and 10(2)(b).

- (2) If a customer declines the continued supply of an IMR service using a method made available to the customer by their CSP, the CSP must ensure that the supply of an IMR service 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 an IMR service by calling a particular Australian number, the CSP must not charge the customer more than AUD 1.00 to do so.
- (4) If a customer chooses to decline the continued supply of an IMR service by accessing the website of the CSP, the CSP must not charge the customer a fee to do so.
- (5) If a customer chooses to decline the continued supply of an IMR service by a method other than the methods referred to in subsections (3) and (4), the CSP must not charge more than AUD 1.00 to do so.
- (6) Any method provided by a CSP under subsection (1) must be easily accessible to its customers.

13 CSPs to make available spend management tools for an IMR service

- (1) A CSP that supplies an IMR service to a customer must, immediately prior to entering into a customer contract with the customer which provides for the supply of an IMR service, and immediately prior to any variation of a customer contract to allow for the supply of an IMR service, inform the customer:
 - (a) of the spend management tool(s) for the IMR service which it makes available and of how those tools can be accessed by the customer; and
 - (b) if a charge may be imposed on a customer for accessing a spend management tool, that charges may apply to access the spend management tool.

Note: A CSP is required to make the spend management tools available to a customer without charge (see paragraph 12(b)). However, if a customer is able to access the spend management tool by using data on their digital device, the customer must be informed that access to the spend management tool in that manner may be subject to data charges.

- (2) A CSP that supplies an IMR service to a customer must make available at least one spend management tool that:
 - (a) allows the customer to obtain current usage estimates in relation to the IMR service; 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 the IMR service and the charges incurred that have not yet been billed to the customer;
 - (ii) in all other cases, to obtain the latest available information about the customer's usage of the IMR service, and the charges that have been incurred.
- (3) In addition to the obligation at subsection (2), a CSP that supplies an IMR service to a customer must make available a spend management tool that meets the following requirements:
 - (a) if a customer is using a post-paid service under which the customer may incur AUD 100 or more of data usage charges for an IMR service, the tool must, each time the customer reaches an estimated increment of AUD 100 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 the IMR service 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 AUD 100 or more of data usage charges, the tool must:
 - (i) each time the customer reaches an estimated increment of AUD 100 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 the IMR service 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 subsections (2) and (3) may be provided as a single tool.

- (4) A CSP that supplies an IMR service to a customer may make available methods for customers to elect to decline to receive the notifications described in paragraphs (3)(a), (b) and (c).
- (5) A CSP must not allow customers to decline to receive the notifications described in paragraphs (3)(a), (b) and (c) by way of accepting a term or condition of a standard form customer contract or the default terms and conditions associated with the purchase of an included value pack.
- (6) If a customer declines to receive the notifications described in paragraphs 3(a), (b) and (c), the CSP must:
 - (a) send an acknowledgement to the customer, using the customer's preferred method of communication, advising the customer that the customer may request to receive the notifications again at any time; and
 - (b) implement any such request as soon as is reasonably practicable, at no cost to the customer.

- (7) A CSP that makes available methods for customers to elect to decline to receive the notifications described in paragraphs (3)(a), (b) and (c) must also make available methods for customers to quickly and easily establish whether they have currently elected to decline to receive those notifications.
- (8) 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.
- (9) A notification under paragraph (3)(b) when a customer reaches 50% and 85% of the included value of an included value pack, must also include the maximum charge information that will apply to the customer's telecommunications product if and when the customer reaches 100% of the included value of the included value pack and the customer continues to use the IMR service that is included in the included value pack in the relevant overseas location.
- (10) A notification under subsection (3) must be sent by way of the customer's preferred method of communication.
- (11) 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 tool(s) described in subsections (2) and (3).
- (12) The spend management tool(s) made available by a CSP in accordance with subsections (2) and (3) must be:
 - (a) easily accessible to the customer; and
 - (b) made available to the customer without charge.

Schedule 1—Repeal

Note: See section 5.

Telecommunications (International Mobile Roaming) Industry Standard 2013 [FRL No. F2013L01301]

1 The whole of the instrument

Repeal the instrument