



25 February 2013

[By email: numbering@acma.gov.au]

Manager
Telecommunications Licensing, Numbering and Submarine Cables Section
Australian Communications and Media Authority
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Dear Sir/Madam

Proposed variation to Numbering Plan – charges for calls to free-phone and local rate numbers

The Consumer Action Law Centre (**Consumer Action**) welcomes the opportunity to comment on the Australian Communications and Media Authority's (ACMA) proposed variation to the numbering plan.

We broadly support ACMA's proposal (Option A in the discussion paper), as opposed to Option B put forward by industry. In our view, option A ensures clarity, transparency and certainty for consumers, whilst option B involves a less reliable and far less trackable mechanism

We have not attempted to answer all questions posed by AMCA in its consultation paper, but have addressed those that are relevant to our work and the clients that approach our service.

About Consumer Action

Consumer Action is an independent, not-for-profit, campaign-focused casework and policy organisation. Consumer Action offers free legal advice, pursues consumer litigation and provides financial counselling to vulnerable and disadvantaged consumers across Victoria. Consumer Action is also a nationally-recognised and influential policy and research body, pursuing a law reform agenda across a range of important consumer issues at a governmental level, in the media, and in the community directly.

Consumer Action provides both free telephone consumer legal advice and financial counselling via 1300 numbers.

Introduction

Our belief is that ACMA's proposal of amending the numbering plan to make 1800 numbers free of charge and 13 and 1300 numbers (hereafter '**13 numbers**') a fixed local call cost should be implemented to ensure consumer awareness and price transparency. The experience of our

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organisation leads us to believe that this is the best method to ensure that the greatest number of people have access to the essential services offered by 13 and 1800 numbers.

Our clients are predominantly low income and amongst the most disadvantaged and vulnerable consumers in Victoria. For the purposes of this consultation, it is important to note that this disadvantage is two pronged.

Firstly, low income means that our clients have difficulty affording the cost of calls on mobiles to 1300 and 1800 numbers. Pre-paid phone plans tend to have the highest rates for calls to 1800 and 1300 numbers, yet in the experience of our financial counsellors these plans tend to be most often used by low income earners because they allow easier budgeting on a low income.

Secondly, low income and disadvantaged individuals are in many ways the group with the greatest need for access to the services often provided by organisations with 1300 and 1800 numbers. Government departments, Centrelink, Community legal centres, medical and drug and alcohol services, and the Office of Public Housing all provide 13 numbers for clients, presumably to ensure that those on low incomes can access these vital services

ACMA has proposed that the number plan should be varied so that the cost of calls from mobile (and fixed) services to freephone services – that is, 1800 and 18 numbers - would be free. This proposal is replicated by industry in its own proposal.

ACMA has also proposed that the number plan should be varied so that the cost of calls from mobile and fixed services to local rate numbers – that is 13 numbers - would be explicitly limited to being no more than ‘the low charge amount’. The practical effect of this would be that the cost of calls to local rate numbers would be limited to 22 cents. The low charge amount can be changed at the discretion of the Minister, but the important part is that ACMA's proposal will limit all mobile calls to 13 numbers to a single, fixed, low rate.

In our view, ACMA's proposal is the surest way to provide clarity and certainty for consumers. By regulating to provide that 1800 numbers are free from mobile phones, and fixing the cost of a call to a 13 number at a low rate, consumers will have price transparency. They will be able to use this knowledge in deciding whether to access the services often provided through 1800 and 13 numbers through calling on their mobile telephones, which include Centrelink and Lifeline, as well as many other government and community services. In our view, implementing this proposal would provide immense benefit to the whole community.

Industry also proposes to make 1800/18 numbers free of charge. However, they propose that rather than fixing 13 numbers at the ‘low charge amount’, these calls can be included in ‘mobile phone plan packages’ – which they state some of which are already in place. In our view, this option provides far less certainty and clarity for consumers. We outline our concerns below about price transparency, and the availability of these kinds of plans for low income earners.

Concerns with industry's proposal

Coverage

In our view, it is essential to ensure that the greatest number of people have access to the services provided by 13 and 1800 numbers.

We note that industry claims that more than 70 plans in the marketplace include 13/1300 calls as part of the package, and that carriers estimate that 80% of the market is covered.

We are unsure what this statistic means in reality. There are an enormous variety of plans in the market. Early customers may be locked into a plan that is no longer offered on the market by that company. Regardless as to the veracity of this claim, in our view, coverage of 80% of the market is meaningless unless that 80% includes those consumers that need access to 13 and 1800 numbers the most – that is, those on prepaid plans, those on the lowest incomes, and those who are most reliant on phones (such as people in rural or remote areas, or who do not have access to transport).

Nor does industry's proposal appear to explain how their proposal will cover prepaid customers, who in our view need access to low cost 13 calls the most. Any reasonable plan must ensure both consumers on post-paid plans, and those on pre-paid plans, are covered.

The industry proposal also gives no guarantee that current coverage will continue. The industry proposal states that there was a relative scarcity of mobile phone plans with 1800 and 13 numbers in their included value in 2010 but the amount of plans which include 13 numbers in plans is increasing and will continue to increase. But this increase has presumably been driven by providers responding to a perceived demand to include 13 calls in their plans. There is nothing in the industry proposal to ensure that the projected increase will occur or that coverage of plans with 13 calls included will remain high if providers decide that including 13 numbers is no longer profitable.

In summary, industry cannot show that their proposal will provide low cost 13 calls to the people that need them most and neither can their proposal guarantee a suitable level of coverage into the future.

Certainty

The industry proposal also fails to provide customers with any certainty about whether they have access to low cost or included 13 calls.

For one thing, mobile phone plans are complex and different plans offer different costs and features. We question whether many customers are even aware whether they have 13 and 18 numbers included in their plan. It is also unclear how customers will be treated if they exceed their included value, though we understand this will vary depending on plan and carrier.

Industry's plan also lacks transparency. ACMA's plan is clear - 18 means free and 13 means a low, fixed cost. This aligns with people's existing understanding, whereas the industry proposal will leave people in doubt about what calls will cost - whether they have a plan that includes 13

calls, how much those actually cost, whether they have gone over their included value and what happens if they do. Despite the arguments by the industry, it is far from certain that consumers will pay more for 13 calls under ACMA's proposal. It is not clear to us, for example, why a requirement to bill 13 calls at the 'low charge amount' would force providers to remove these calls from the included value in plans. If providers do bill these calls separately, we are not necessarily convinced that consumers would pay more for these calls than they do now. Calling 13 numbers depletes the included value in a plan and so costs a consumer money, but few consumers would know quite how much they cost and this figure would vary between plans.

Regulatory Burden

Industry has argued that there would be a cost to industry if ACMA's proposal is implemented. However, the current state for consumers also creates costs. There are real costs in maintaining a system that allows uncertainty about how much 13 calls cost. These can include unexpectedly high bills for consumers, and the disputes that may follow between the carrier and the individual, individuals losing the ability to access essential services through 13 numbers and the stress this causes.

Although industry wishes to avoid greater regulation - and consumers want to avoid paying for unnecessary regulation - we do not think industry's proposal can be implemented without at least as much regulation as ACMA's proposal. To give any certainty of coverage, further regulation would be required to oblige the industry to ensure that affordable plans are on the market that include 1300 numbers in their included value. Otherwise, low income earners who are in the greatest need of price certainty to ensure they can access vital services on 13 numbers will be priced out of receiving the benefits of these plans.

Responses to Consultation Questions

Cost of calls to free-phone (1800) services

Q1. Do you support the approaches proposed in Options A and B, either in whole or in part, as an appropriate way to achieve the ACMA's objectives for the cost of calls from mobile services to freephone numbers?

Consumer Action supports the proposal in Option A and in Option B to amend the number plan to provide that calls to freephone numbers from mobile (and fixed) lines are free of charge.

Q2. Other than the approaches described in this discussion paper, are there other methods you believe may achieve the outcomes sought by the ACMA?

We believe that regulating to provide that calls to free-phone numbers are free is the best method to achieve ACMA's outcomes.

Q3. Should the implementation date for new arrangements for the cost of calls to free-phone service continue to be 1 January 2015 or can implementation be brought forward to an earlier date?

If possible, implementation of the new arrangements for the cost of calls to free-phone service should be brought forward to a date earlier than 1 January 2015. Ensuring that consumers, particularly low income consumers, have access to the services provided by 1800 and 13 numbers is essential. Therefore, we believe that regulating to provide that 1800 numbers are free should be implemented as early as is possible.

Cost of calls to local rate (13/1300) services

Q4. Do you support the approaches proposed in Options A or B, either in whole or in part, as appropriate ways to achieve the ACMA's objectives for the cost of calls from mobile services to local rate numbers?

We support Option A proposed by ACMA as an appropriate way to achieve the object for cost of calls from mobile services to local rate numbers. In our view, Option B does not provide sufficient certainty and price transparency for consumers.

Q5. Other than the approaches described in this discussion paper, are there other methods you believe may achieve the outcomes sought by the ACMA?

In our view option A is the appropriate mechanism to achieve ACMA's objectives.

Q6. What are the likely consequences for consumers in Options A and B, including the impact on calls from fixed and mobile phones to services that are subject to the low charge amount?

We believe it is essential to ensure that the greatest number of people have access to the services provided by 13 and 1800 numbers, which we believe can be provided by implementing Option A, which provides certainty and coverage for the greatest number of consumers, on a range of incomes.

As stated, in our view, Option A would ensure that consumers are aware of the costs involved in making 13 calls. The price would be fixed, and as the rate would be the same regardless of the carrier involved. This price transparency would reduce disincentives for low income consumers to access the services that offer 13 numbers as contact numbers, including Lifeline, Centrelink and other vital services.

Option B does not provide clarity and certainty for consumers. The terms and conditions of mobile phone plans vary greatly, and the fees attached to calling 13 numbers will likewise vary. Many consumers would be unaware about the price of 13 numbers under their plan, especially as to what the cost would be where a call allowance is exceeded. A lack of price certainty is a major disincentive for consumers in calling these numbers. Neither can their proposal guarantee a suitable level of coverage into the future for customers.

Questions about Option A

Q10. Is it appropriate to require that the cost of calls to local rate numbers be no more than the low charge amount?

See question 4. It is appropriate. It is necessary to ensure that the services often linked to 13 numbers are affordable, accessible and costs are certain for those on very low incomes, both on pre and post paid plans.

Q11. Is there an alternative approach to identifying the cost of calls to local rate numbers, or a different amount that could be specified for calls to local rate numbers?

Our view is that the option proposed by ACMA is that regulating to ensure that 13 numbers are the cost of a local call is the surest way to achieve the objectives set by ACMA.

Q12. Should there be any exceptions or exclusions to the application of the low charge amount (or any other amount) for calls to local rate services?

We are unaware of arguments for exclusions. In our opinion there should not be exclusions, so as to ensure price clarity for consumers.

Questions about Option B

Q13. How would industry 'lock in' the key elements of its proposal such as included-value plans and monthly call allowances so that the ACMA can be confident that there will be overall and continued consumer benefit?

We are of the view that there would be great practical difficulty in industry attempting to 'lock in' the key elements of its proposal. Ensuring that affordable 13 calls remain available for all customers (particularly low income earners) would require regulation by ACMA. It seems to us that regulating to force industry to provide adequate coverage of affordable 13 calls, including processes for prepaid customers and customers who exceed their monthly call limit would be more complex and burdensome than regulating a fixed price for 13 numbers.

Q14. Industry proposes working with their MVNOs to facilitate the creation and offering of 13/1300 friendly plans where these are not already in place. What actions could industry take so these could be guaranteed and in place in 2014?

The telecommunication industry has a history of failing to provide adequate protections for consumers, eg: meeting disclosure requirements. We have strong doubts that this will change in the near future. Therefore, we believe that regulation will be required to compel industry to put in place 13/1300 friendly mobile phone plans that are affordable for customers on a range of incomes. Again, this is why in our view ACMA's proposal is the far stronger solution.

Q16. What factors should the ACMA take into account when it assesses the industry proposal to undertake wide-reaching consumer education programs to improve understanding of charges for calls to 13/1300 numbers? How would the effectiveness of those consumer education programs be assessed?

We have doubts that a consumer education program would be wide reaching and substantial enough to ensure that consumers were aware of the charges for 13 numbers. The cost of these calls will vary between mobile phone plans, and therefore different carriers will need different education tools for each of their mobile plans. Even if a consumer education program is

successful initially, understanding of charges will drop off over time. On the other hand, consumers will readily understand that 13 calls mean a low, fixed cost - this is the current understanding and is a message that will not be complicated by the existence of many different plans and providers in the market. Industry has failed to enhance disclosure for customers in the past. Bill shock continues to be an issue. We are of the belief that it is far simpler to regulate to ensure that 13 means a set, fixed low cost for consumers.

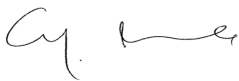
Q17. Industry proposes conducting further research into the actual incidence and nature of any consumer detriment from calls to local rate numbers. What is the timing for such action and, if detriment was found, how could the ACMA and consumers be assured that industry would take definitive action?

See questions 13 and 16. We question the likelihood of industry engaging sufficiently in this research, and note that there has been no explanation by industry as to what this research project would look like, the timing, or the response that industry would have if detriment to consumers is found. Further, it is clear that the industry has an interest in ensuring this research shows little or no consumer detriment from calls to local rate numbers. We doubt whether any research conducted by industry could be relied upon as being balanced. If this kind of research is going to have any bearing on the Government's decision on this issue, it should be conducted independently by Government.

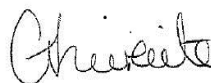
Please contact Cathy Thwaite on 03 9670 5088 or at cathy@consumeraction.org.au if you have any questions about this submission.

Yours sincerely

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