

23 April 2013

Ms Sophie Dunstone
Committee Secretary
Senate Standing Committee on Environment and Communications
PO Box 6100
Parliament House
Canberra ACT 2600

Via email: ec.sen@aph.gov.au

Dear Ms Dunstone

Inquiry into the feasibility of a prohibition on the charging of fees for an unlisted (silent) number service - Submission by the Australian Communications and Media Authority

Thank you for the opportunity to provide a submission on this issue. It is one with which the ACMA and its predecessor, the Australian Communications Authority (ACA) have previously engaged. It is also one in relation to which recent ACMA research may offer some insights.

This Submission does not attempt to replicate previous work. Rather, it flags that previous work – with links to relevant documentation on the ACMA's website.

Our Role

The ACMA is a regulatory agency with a remit spanning radio-communications, telecommunications, broadcasting and the internet. Relevantly for this inquiry, its roles include the following.

- The ACMA enforces compliance with the *Telecommunications Act 1997*, including carrier licence conditions and service provider rules about directories.
- The ACMA makes and administers rules governing who can access the Integrated Public Number Database.
- The ACMA makes and administers the Numbering Plan for Australia.
- The ACMA operates the 'Do Not Call' register and enforces compliance with the *Do Not Call Register Act 2006*.
- The ACMA makes, registers and/or administers a range of self- and co-regulatory instruments, relevant to the telecommunications industry that have a significant privacy dimension to them.

Prior reviews

The ACMA has conducted or contributed to several regulatory reviews over the last few years, which have touched on the issue of charging for silent numbers. Key among these are:

- The ACA conducted a limited review on the issue of access to the IPND that commenced when the ACA issued a discussion paper "Who's Got Your Number" in March 2004: see http://www.acma.gov.au/WEB/STANDARD/pc=PC_1033
This was followed by the ACMA preparing a draft *Telecommunications (Use of Integrated Public Number Database) Industry Standard 2005* in May 2005: see http://www.acma.gov.au/WEB/STANDARD/784165/pc=PC_9003
The standard was not made. Instead, the ACMA was required under the Act, to develop the *Integrated Public Number Database Scheme 2007*: see http://www.acma.gov.au/scripts/nc.dll?WEB/STANDARD/1001/pc=PC_101035
- The ACMA made a submission to the Australian Law Reform Commission, December 2007 Review of Privacy – with comments reflected in Discussion Paper 72 in which the silent line issue was specifically addressed: see http://www.acma.gov.au/webwr/assets/main/lib100232/arlc_submission_final.pdf
- The ACMA undertook a significant Work Program to re-examine aspects of the Numbering Plan between 2010 and 2012, and silent line charging was a matter that was raised and attracted comment. The papers issued by the ACMA, research undertaken and submissions received, can be accessed here: http://www.acma.gov.au/WEB/STANDARD/pc=PC_312339
- The ACMA also worked closely with DBCDE during its Review of the Integrated Public Number Database in December 2011.

The ACMA would be happy to supply the committee with hard copies of any related material if it wishes.

Further Background and Comment

The Integrated Public Number Database

All telecommunications customers must provide required information to their telecommunications provider in order to receive service. In turn, telecommunications providers must provide required information to the Integrated Public Number Database (IPND). One of the outcomes facilitated by the IPND is the publication of public number directories.

When consumers provide their information to their provider they can indicate their public number directory display preference. The options are:

1. Listed – details will be published in public number directories both hard copy and online;
2. Unlisted – details will not be published in hard copy or on-line directories. Operator assisted services will have visibility of a flag, indicating that the information is unlisted;

3. Suppressed address – details of the name and relevant phone number will appear but the relevant address will not.

The ACMA notes that option 2 is the preference most likely to lead to a 'silent number service'.

Silent Number Service

The dominant public number directory is the White Pages published by Telstra. Telstra does not access the IPND to compile the White Pages directory. Instead, it relies on substantially identical data supplied under commercial arrangements Telstra makes with individual telecommunications providers.

Other directories are published by public number directory producers which access the IPND for their data.

The 'Silent Number Service' is a Telstra service offered to the customers of Telstra and Telstra resellers.

Specific to the Terms of Reference

The ACMA makes the following observations in relation to the Terms of Reference for this Inquiry

Feasibility of a prohibition on the charging of fees for an unlisted (silent) number service, with particular reference to:

- a) **Recommendation n. 72.17 contained in report no.108 of the Australian Law Reform Commission on Australian privacy law and practice;**

The Telecommunications Act 1997 (Cth) should be amended to prohibit the charging of a fee for an unlisted (silent) number on a public number directory.

ACMA comment:

The ACMA considers that the idea that consumers should be able to choose not to have their details published and to be able to do so at no direct cost is, in principle, consistent with good consumer outcomes.

The ACMA does not have a particular view on whether legislation, including amendment to the *Telecommunications Act 1997* is needed to secure this outcome.

- b) **Whether the payment of a fee unduly inhibits the privacy of telephone subscribers**

ACMA comment:

The imposition of a fee may impact on a consumer's decision to choose to have an unlisted number.

As described above, consumers have little control over the flow of their information to the IPND and then into Public Number Directories. The key control lever available is the option of an unlisted number. If this option comes at a cost, that cost may act as a disincentive for consumers to control the flow of their information and thereby protect their privacy.

Moreover, once a consumer's number is listed in a public number directory that number is in the public domain for all time and available for use by third parties. These uses

may well be ones that the consumer would neither have anticipated nor permitted. That is to say, there is a flow-on effect from that first decision to have a listed number (or the decision not to pay a fee for an unlisted number).

The ACMA notes that in other mainstream communication platforms (such as social media sites) consumers normally have a significant ability to control public access to their information, without direct charge.

c) The likely economic, social and public interest impact for consumers and businesses, carriers service providers and the White Pages Directory Producer, if the charging of fees for unlisted number services was prohibited.

ACMA comment:

The ACMA is not aware of any research on the benefits or otherwise of charging for silent numbers.

Nor is the ACMA aware of any research suggesting that there have been significant economic, social or public interest consequences as a result of the widespread lack of public directory information for mobile services.

d) The implications of such prohibition for the efficacy of the national public number directory;

ACMA comment:

The ACMA is responsible for the *Telecommunications Numbering Plan 1997* which sets rules for the use administration of Australian telephone numbers.

Over the past two years the ACMA has conducted an extensive review and consultation program on telephone numbering arrangements.

As part of this work the ACMA undertook qualitative and quantitative research to understand how consumers were using telephone numbers and their understanding of charging arrangements associated with the use of particular number types. This included an examination of the use of directory assistance services and the White and Yellow Pages directories. While the research did not explicitly examine the issue of charging for unlisted numbers, the research offers insights into the relative importance Australians attach to accessing the White and Yellow pages compared with other forms of electronic directory services.

Key research findings are noted below.

The capacity of a phone to store numbers and other contact details, and the ease of capturing a caller's details, have lessened the dependency on, and use of, written phone lists, telephone directories and directory services for many participants.

Relatively few focus group participants maintained a personal written list of contacts.

Many participants preferred to use online search facilities such as Google rather than the phone book or electronic directories as it was faster, provided more succinct information and, if being used to find a local tradesperson, for example, provided a targeted list.

For many research participants, the use and role of Directory Assistance services was changing.

There was limited knowledge of who provides Directory Assistance services. It was generally assumed that these services were provided by Telstra, even among those who did not have Telstra as a service provider.

Overall, there was a perception that Directory Assistance was expensive—participants were therefore less inclined to use it from their landline when they had the option of using Google or an electronic directory.

Mobile phone users were more inclined to use the Directory Assistance service when away from home, although those with internet access on their phone still search the internet for a number rather than use the Directory Assistance service.

The decision to use the Directory Assistance service from a mobile was often seen as a trade-off between cost and convenience, and was therefore used for things such as finding a business or notifying someone if they were running late.

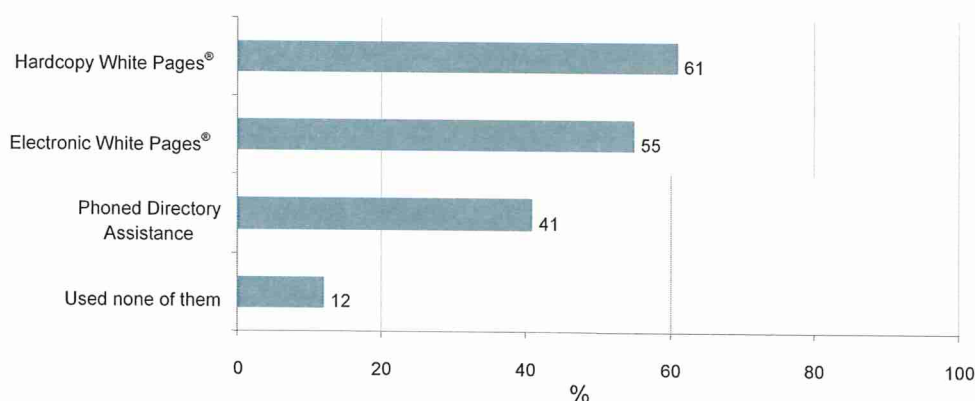
The majority of Australians continue to keep a printed telephone directory at home and have used a telephone directory and/or Directory Assistance services in the last 12 months.

Nine in 10 (88 per cent) of all Australians have used either the hardcopy White Pages® and/or the electronic White Pages® and/or called Directory Assistance services to find a telephone number in the last 12 months.

In the last 12 months, three in five (61 per cent) of all Australians used the hardcopy White Pages®, 55 per cent used the electronic White Pages® and two in five (41 per cent) called Directory Assistance services.

The majority of Australians (86 per cent) keep at least one printed telephone directory at home, either the printed White Pages®, Yellow Pages® and/or a combined book with both.

Figure 57 Use of telephone directory services



Q36 In the past 12 months, have you used any of the following to find a phone number?

Base: All respondents (N=1,500).

People aged 65 years or older are much more likely to use a hardcopy of the White Pages® (73 per cent) than the electronic version (28 per cent). There is, however, relatively little difference in the likelihood of people younger than this using one form of the directory or the other. Those aged 25–49 show a slightly higher tendency to use the electronic White Pages® (66 per cent, compared with 55 per cent for all age groups).

There is a clear trend in the use of the electronic White Pages® across household income—one in five (21 per cent) people with a household income of less than \$25,000 uses the electronic White Pages®, rising to 75 per cent of those with a household income of over \$75,000. This finding is linked closely to differences across age and the prevalence of having an internet connection at home.

Whether or not a person speaks a language other than English at home is also an indicator of likelihood to use directory services. People who speak English at home are more likely to use directories, in particular the hardcopy White Pages® (65 per cent compared to 39 per cent of people who speak a language other than English at home). This latter group is more likely not to use any directory services (30 per cent), compared with people who speak English at home (nine per cent).

The research is available at

http://www.acma.gov.au/WEB/STANDARD/pc=PC_312527

Any other relevant matters

ACMA comment:

Treatment of mobile numbers

The ACMA notes the treatment of mobile numbers in public number directories. Typically, the default setting for mobile numbers is 'unlisted' with no charge associated. The ACMA is not aware of any evidence that detriment has resulted from this default. It seems anomalous that, with the uptake and use of mobiles outstripping fixed line phones, consumers do not have to pay a charge to limit the disclosure of their personal information associated with their mobile service but do so in regard to their fixed line service.

Consistency of application

In past consultation and regulatory development processes the ACMA has noted that regulation attached to the White Pages Directory (and the data collection and protection processes that support that directory) should be substantially the same as that attached to the data contained in the IPND and to directories sourced from the IPND. If changes to legislation are to result from this inquiry, that legislation should apply consistently across all directories regardless of their data source.

Yours sincerely

Jennifer McNeill

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