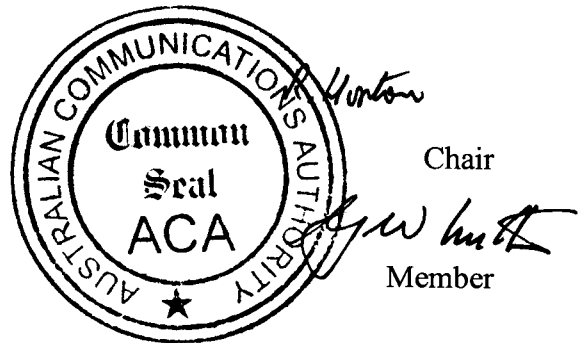




Telecommunications (Freephone and Local Rate Numbers) Directions 2004 (No. 1)

The AUSTRALIAN COMMUNICATIONS AUTHORITY makes these Directions under section 581 of the *Telecommunications Act 1997*.

Dated 23 March 2004



Australian Communications Authority

1 Name of Directions

These Directions are the *Telecommunications (Freephone and Local Rate Numbers) Directions 2004 (No. 1)*.

2 Commencement

These Directions commence on 5 July 2004.

3. Definitions

Act means the *Telecommunications Act 1997*.

acquisition of property has the same meaning as in paragraph 51(xxxi) of the Constitution;

administrative allocation means allocation as set out in Division 5, 6 or 7 of the numbering plan.

allocation by auction means allocation as set out in Division 7A of the numbering plan.

CSPs means the carriage service providers registered under section 3.44 of the numbering plan.

declared FLRN means a FLRN declared under the 2000 Declaration or the 2004 Declaration to be available for allocation in accordance with Part 5 of the numbering plan.

FLRN means a freephone number or a local rate number.

freephone number means a number used for a freephone service.

just terms has the same meaning as in paragraph 51(xxxi) of the Constitution.

local rate number means a number used for a local rate service.

numbering plan means the *Telecommunications Numbering Plan 1997*.

Related Corporation has the same meaning as in section 50 of the *Corporations Act 2001*.

the 2000 Declaration means the *Telecommunications Numbering Plan Number Declaration 2000*.

the 2004 Declaration means the *Telecommunications Numbering Plan Number Declaration 2004*.

Note A number of expressions used in these Directions are defined in section 7 of the Act, including:

- ACA
- number
- numbering plan
- carriage service intermediary.

4. Purpose of directions

The purpose of these Directions is to ensure that:

- (a) FLRNs declared as being available for allocation by auction are able to be allocated in that way; and

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- (b) some FLRNs remain available for administrative allocation.

5. Notification of numbers

The ACA may notify a CSP in writing that a declared FLRN is only available for application for administrative allocation.

6. Direction about numbers allocated by auction

- (1) The ACA directs the CSPs that they may only make an application to the ACA for allocation by auction of a FLRN if the FLRN:
 - (a) is declared; and
 - (b) is not allocated; and
 - (c) is not a quarantined number; and
 - (d) is not in auction-declared quarantine within the meaning of Division 7A of the numbering plan; and
 - (e) is a number that:
 - (i) has not been notified under section 5; or
 - (ii) is not included in Part 2, 5 or 6 of the Schedule to the 2000 Declaration.
- (2) Subsection (1) is not intended to affect the ability of a CSP to ask the ACA to release and allocate a FLRN under section 3.75S of the numbering plan.

7. Direction about numbers allocated administratively

The ACA directs the CSPs that they may only make an application to the ACA for administrative allocation of a FLRN if the FLRN is declared and:

- (a) has been notified under section 5; or
- (b) is included in Part 2, 5 or 6 of Schedule 1 of the 2000 Declaration; or
- (c) the application is authorised by section 8.

NOTE: The quarantine of a number is a ground for refusing an application for administrative allocation under 3.47, 3.59 and 3.69 of the numbering plan.

8. Transitional

- (1) The ACA directs the CSPs that they may only make an application for administrative allocation of a FLRN, as set out in this section, if the FLRN is a declared FLRN listed in Schedule 1 to the 2000 Declaration but:
 - (a) has not been notified under section 5; or
 - (b) is not included in Part 2, 5 or 6 of Schedule 1 of the 2000 Declaration.
- (2) A CSP may make an application for administrative allocation of the FLRN if:
 - (a) at 13 May 2003, the CSP had a legally enforceable obligation to issue that number to a customer; and
 - (b) the CSP would incur liability to the customer if it did not make the application to the ACA solely because the service provider otherwise complied with section 6 or 7; and

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- (c) the CSP has documentary evidence of the obligation and liability; and
 - (d) the CSP's intention is to issue the number to the customer.
 - (3) A CSP may make an application for administrative allocation of the FLRN if:
 - (a) the CSP's intention at the time of making the application is to issue the number to itself or to a related corporation; and
 - (b) the CSP or the related corporation had, on or before 13 May 2003, incurred materially significant expense in relation to the proposed use of the number, or would incur liability to a customer if the CSP did not make the application to the ACA solely because the CSP otherwise complied with direction 6 or 7; and
 - (c) the CSP has documentary evidence of its intention and the expense, or clearly indicating the reason why it would incur the liability referred to in paragraph (3)(b).
 - (4) A CSP may make an application for administrative allocation of the FLRN if:
 - (a) at 13 May 2003, a carriage service intermediary with whom the CSP had an agreement in relation to FLRNs had a legally enforceable obligation under which that FRLN would be issued to a customer; and
 - (b) the carriage service intermediary would incur liability to the customer if the CSP did not make the application to the ACA solely because the CSP otherwise complied with section 6 or 7; and
 - (c) the carriage service intermediary has documentary evidence of the obligation and liability; and
 - (d) the intention of the CSP and the carriage service intermediary is that the FLRN be issued to the customer.
 - (5) The ACA directs the CSPs to:
 - (a) retain the documentary evidence referred to in this section until the ACA gives the CSP written notice that it is no longer required; and
 - (b) produce that evidence to the ACA on demand.
 - (6) These directions do not have effect to the extent, if any, to which compliance with the directions would result in the acquisition of property, and that acquisition would be:
 - (a) otherwise than on just terms; and
 - (b) invalid because of paragraph 51(xxxi) of the Constitution.

9 Repeal

The following Directions are repealed:

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- (a) *Telecommunications (Freephone and Local Rate Numbers) Directions No. 1 2003;*
 - (b) *Telecommunications (Freephone and Local Rate Numbers) Directions No. 2 2003;*
 - (c) *Telecommunications (Freephone and Local Rate Numbers) Directions (No. 2) Amendment 2003 (No. 1).*
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