**

Proposal to vary the Telecommunications Numbering Plan 2015

*Twilio’s Response to the Consultation by Australian Communications and Media Authority*

11 November 2022

1. About Twilio

1.1 Twilio is a leading global Communication Platform as a Service (**CPaaS**) provider and is a carriage service provider (**CSP**) within the meaning of section 87 of the Telecommunications Act 1997 (**TA**).

1.2 Twilio’s software allows Twilio’s customers to communicate with their customers across all of their communication channels including, voice, SMS, messaging, or email. Twilio’s customers incorporate our communications services into their applications across a range of industries including financial services, retail, healthcare and non-profits.

1.3 Twilio’s customers include not only international brands but also small and medium-sized enterprises and [Twilio.org](https://twilio.org/), supports charitable organisations, social enterprises, healthcare and education institutions to meet their communications needs with Twilio technology and funding.

1.4 Twilio welcomes the opportunity to provide feedback on the Australian Communications and Media Authority’s (**ACMA**) Consultation: Proposal to vary the Telecommunications Numbering Plan 2015 (**Consultation**).

1.5 Please do not hesitate to refer any questions or remarks that may arise as a result of our comments to Twilio’s Global Telecommunications Team at [regulatory-notices@twilio.com](mailto:regulatory-notices@twilio.com)

2. Twilio’s General Comments

2.1 Twilio is a trusted member of national and international committees that are shaping the future of telecommunications. We’re committed to building best practices and standards to strengthen trust among all stakeholders in the telco ecosystem by combating and reducing scam. Twilio is a member of:

* [Alliance for Telecommunications Industry Solutions](https://www.twilio.com/press/releases/twilio-joins-atis-board-directors)
* [North American Numbering Council (NANC)](https://www.twilio.com/press/releases/fcc-designates-twilio-member-of-north-american-numbering-council)
* [State Attorneys General Anti-Robocall Coalition](https://www.twilio.com/press/releases/twilio-joins-state-attorneys-general-anti-robocall-coalition)
* [Messaging, Malware and Mobile Anti-Abuse Working Group](https://www.twilio.com/press/releases/twilio-joins-m3aawg)
* [Cellular Telecommunications Industry Association](https://www.ctia.org/)
* [USTelecom](https://www.twilio.com/press/releases/twilio-joins-ustelecom)

2.2 Whilst Twilio fully supports initiatives that disrupt scam calls and messages in all the markets in which we operate, Twilio does not support adding layers of regulatory complexity that reduce competition to the detriment of consumers and economy when these do not contribute to reducing scam calls and messages or ensuring the efficient allocation of numbering resources. In this regard, Twilio notes that some of ACMA’s proposals are already covered by the Communication Alliance codes that have been registered such as the Reducing Scam Calls and Scam SMs code or the proposed Number Management-Use of Numbers by Customers code that has been submitted to ACMA for registration.

2.3 Twilio also does not support interventions that will limit competition, innovation and consumer choice by limiting the number of times numbers can be contractually sub-assigned or that assignment and sub-assignment of numbers be limited to Australian businesses. Moreover, limiting the number of times numbers can be contractually sub-assigned or only permitting the use of numbering resources by Australian businesses will restrict both domestic and international companies that are at the forefront of innovation and are currently providing services in Australia from continuing to do so if they cannot access numbering resources or are granted insufficient lead time to change their business model

3. Twilio’s Response to ACMA’s Questions

3.1 In this section, Twilio sets out its comments on the questions posed by ACMA on the Consultation. Twilio’s decision not to respond to any particular question raised by ACMA does not necessarily represent agreement, in whole or in part with the proposals made in the Consultation. Twilio does not directly address all of ACMA’s questions but uses those as a framework for providing comments on the Consultation in the areas where Twilio has the most concerns.

Registration in the Numbering System

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| *Are there any reasons CSPs shouldn’t be registered as a precondition to being assigned numbers on the same network?*  *Should the numbering plan limit the number of times a number can be provided to another CSP under contractual arrangements (i.e. that is assign the number) outside the Numbering System?*  *Should the numbering plan restrict entities which can be assigned numbers to Australian businesses?*  *Under proposed transitional arrangements, is 90 days from commencement of registration provisions sufficient time for CSPs that have been assigned numbers to register?*  *Is between 90 -180 days sufficient time for donor CSPs to check the registration status of CSPs that have been assigned numbers?* |

3.2 Sub-assignment has and will continue to benefit end users in Australia by giving them access to more options to suit their electronic communications needs through new and innovative services, providers and technology. This in turn will promote the objects of the TA and in particular the long-term interests of end users.

3.3 In the consultation paper, the stated aim of the proposed amendments to the Numbering Plan are enhancing the Numbering Plan’s efficiency and effectiveness by: (i) supporting scam disruption initiatives; and (ii) enabling efficient allocation of numbers. It is not clear how the proposed requirement for CSPs to register on the Numbering System will achieve these aims. Twilio supports efforts to minimise and disrupt scam activity both in Australia and internationally, but Twilio considers that the measures proposed by ACMA in the draft variation to the Numbering Plan will have limited benefit while imposing considerable administrative burden on CSPs throughout the supply chain. Our reasons for objecting to these changes are detailed below.

3.4 The proposed Communications Alliance code Number Management - Use of Numbers by Customers (**Number Management Code**), which was recently submitted to ACMA by the Communications Alliance, contains a requirement for CSPs to keep records of numbers that have been sub-assigned by them for as long as the assignment remains valid (see clause 3.1.3). Similarly, the Communication Alliance Reducing Scam Calls and Scam SMs (**Scam Code**) deals with scam disruption initiatives including requirements for exchange of information between CSPs and ACMA. Therefore, it is not clear how the requirement for a CSP to merely register on the Numbering System supports scam disruption over and above the requirement in the Communications Alliance Number Management and Scam Codes. In addition, the Integrated Public Numbers Database (**IPND**) Code requires CSPs providing a carriage service to a customer to provide certain customer data to the manager of the IPND (**Telstra**). This information includes the identity of the CSP providing services to customers.[[1]](#footnote-1)

3.5 ACMA also has the power under the TA to direct a CSP to comply with a registered industry code. A failure to comply with such a direction can lead to enforcement action by ACMA. This suggests that ACMA already has several tools in its regulatory toolkit to deal with these issues.

3.6 It is not clear how requiring a CSP to register on the Numbering System to receive a contractual assignment of numbers that is not recorded on the Numbering System supports the efficient allocation of numbers. Sub-assignment itself can support the efficient allocation of numbers by providing an alternative mechanism for providers to enter the market, thereby increasing competition and giving end users greater choice and lower prices. However, merely requiring a CSP to register on the Numbering System prior to being able to be contractually sub-assigned a number does not seem to enhance the efficiency of number allocation. Rather, it adds another layer of complexity to the regulatory landscape particularly for international CSPs that do not have a local place of business in Australia and will likely increase costs for providers and their customers.

3.7 Twilio notes that ACMA is also proposing to remove the objects from the Numbering Plan so that in future, the Numbering Plan should be interpreted in accordance with the objects of the Telecommunications Act 1997.

3.8 Twilio questions whether the s87A amendment is consistent with those objectives, in particular: (i) “*efficiency and international competitiveness of the Australian telecommunications industry;*” and (ii) *“the availability of accessible and affordable carriage services that enhance the welfare of Australians.*” Innovation and the long-term interests of end users are at the heart of the objects of the TA. Much of the innovation in preventing scams has been driven by international innovation, for instance steps taken by the FCC and carriers in the United States. Foreclosing market entry or, at least, imposing additional regulatory hurdles, for international carriers based outside of Australia would run contrary to the aims of the TA.

3.9 In response to ACMA’s question about limiting the number of times that a number can be sub-assigned contractually outside the Numbering System, ACMA has not provided any information about what harm such a limitation would seek to address. Given the lack of an identified harm or evidentiary basis for the Numbering Plan limiting the number of times a number can be contractually sub-assigned outside the Numbering System, Twilio is strongly opposed to such a restriction being introduced into the Numbering Plan. Twilio notes that such a restriction would seem premature given the new provisions of the poroposed Number Management Code which requires that CSPs all the way down the chain keep records of their sub-assignments.

3.10 ACMA had failed to specify what it considers to be an appropriate restriction on the number of times that a number can be sub-assigned. Any restriction will have adverse consequences for the final assignee which will be constrained in its rights in using the number or potentially, from reorganising its own business by sub-assigning numbers intra-group. It also begs the question what will happen to those numbers, and indeed those CSPs, that have been sub-assigned numbers outside what ACMA has deemed to be appropriate. Will they be required to return the numbers? What will happen to the contracts that they have in place with consumers?

3.11 Introducing such a restriction on the number of times that a number can be sub-assigned could in itself bring about harm by restricting competition and innovation. Allowing subsequent sub-assignments is one of the best means to ensure that numbering regulations do not become an artificial obstacle to innovation and that competition can be completely fulfilled. It is critical in our view that numbering regulations are future proof and scalable in order not to negatively impact advances in technology. Artificially limiting the number of times that a number can be sub-assigned limits innovation and the use cases that developments in technology can support. Taking into account market trends, any restrictions on subsequent sub-assignment are already outdated or will quickly become outdated.

3.12 ACMA also asks for views on whether sub-assignments should be limited to CSPs that are Australian businesses. Twilio notes that ACMA has provided no definition of what it considers an ‘Australian business’ to be for these purposes. Nor has ACMA identified the harm that such a proposal is designed to address. In any event, Twilio is strongly opposed to restricting sub-assignments to Australian businesses however that may be defined, and in particular if this were to be restricted to companies that have an Australian Company Number (ACN). Introducing such a requirement, which is as yet undefined, would in Twilio’s view be detrimental to innovation and the long-term interests of Australian consumers by unduly restricting the ability of international businesses to provide services in Australia.

3.13 If, contrary to Twilio’s representations, ACMA proceeds with its proposal to require CSPs to register on the Australian numbering system, then Twilio believes that a longer period of at least a year should be given for them to register. CSPs that have assigned numbers should then be given a further 180 days to check the status of such registrations. This is because CSPs that have been assigned numbers exist in all shapes and sizes and there is inevitably a burden on the CSP that has assigned the numbers to communicate this message which will be time consuming. As this message will then need to be passed down the chain, this will take time before the relevant CSPs that have been sub-assigned numbers are in a position to action that message (whether by registering or electing to return the number). In particular, some international CSPs may not have previously required an Australian Registered Body Number (**ARBN**). Receipt of an ARBN can in and of itself take two to four weeks even for a simple application. This is before taking into account the new requirements to obtain a Directors Identification Number which for international directors will require the involvement of a notary public or consular official.

3.14 More importantly however, if a CSP that has been contractually sub-assigned numbers decides to return the numbers rather than register them on the Numbering System, this is likely to involve them withdrawing the number from a customer. Under ACMA’s proposed changes to s.97(3), a minimum 90-day notice period must be given to the customer before recall of a number. As a result, Twilio strongly believes that it is imperative that the period for registration or returning the numbers must be extended to allow for the proposed 90-day notice period to be met. While ACMA could require recall of the number under s.99, the absence of a notice period would seem unfair to consumers. If following the Consultation, a longer period than 90 days for notice is proposed, then the period of time given to CSPs to register would need to take that longer period into account. There will also be potential contractual liability issues to unpack where a number is withdrawn at no fault of the end-consumer or indeed of any further sub-assignee. Ultimately, consumers will suffer.

3.15 Checking that CSPs have registered at the end of that 180-day period will again require time for communication up and down the chain. ACMA’s current proposals also seem to suggest that each individual that has contractually sub-assigned the number will be required to notify ACMA, meaning that ACMA may receive notifications from CSPs that are a number of links down the chain.

3.16 It appears that ACMA has also given itself the power through its proposed amendments to sections 91 and 92 to withdraw the number where section 87A has not been complied with but this will not be an appropriate action in all cases. For example, imagine that CSP A has been allocated a number by ACMA and then assigns it to CSP B, that then sub assigns it to CSP C that then sub assigns it to CSP D. What happens if CSP B and D register, but CSP C does not register in time? Whilst Twilio notes that the withdrawal power can only be exercised in circumstances where the *“benefits of withdrawing the number or the problems to be avoided by withdrawing the number are more significant for end users and carriage service providers than the technical and financial consequences of withdrawing the number,*” it is not clear what criteria ACMA will use to decide in such situations whether or not to withdraw the number.

3.17 Furthermore, under those provisions ACMA proposes that notice will be served upon the “holder” of the number. Twilio notes that for the purposes of the Numbering Plan, a CSP holds a number if “*the number has been allocated to the carriage service provider or transferred to the carriage service provider; and the number has not subsequently been transferred to another carriage service provider, surrendered or withdrawn*”. In circumstances where assignment or sub-assignment has taken place, the sub-assignee will have received no notice of the proposed withdrawal and thus no opportunity to seek a review of that decision even if they are not the party that has not failed to comply with section 87A. This would appear to run contrary to the principles of natural justice.

Withdrawing Numbers used for Scam

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| *In deciding whether to withdraw numbers used for scam or fraudulent purposes, what should the ACMA consider?* |

3.18 ACMA has already registered the Scam Code requiring CSPs to take action against scam calls or SMs. The power that is proposed for ACMA appears to be inconsistent with clause 4.6.1 of the Scam Code which obliges C/CSPs to take action as soon as reasonably practicable to block scam calls when being originated and/or carried over their network. This clause also provides that *clear evidence* of continued use of a number for scam purposes must be found before withdrawal. ACMA however will only require “*reasonable grounds to believe* that a number has been or is likely to be used in association with a scam communication”. While ACMA will also need to be satisfied that the benefits of withdrawal outweigh any consequences of withdrawal, it appears to Twilio that this holds ACMA to a lower standard than that imposed on CSPs.

Efficient Allocation of Numbers

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| *Do you support these initiatives? Why? Why not?*  *Is there any specific cost or burden in relation to the proposals?*  *If you are a CSP, do you anticipate you will be more likely to apply for an allocation of numbers or a transfer of numbers, via the Numbering System if standard unit sizes are reduced to 10,000 number blocks?*  *Noting we anticipate changes will be made to the Numbering System by the end of March 2023, will CSP systems be able to accept 10,000 numbering blocks by that time? If CSPs expect they will need longer, would a possible workaround be to apply for allocation of 10 x 10,000 number blocks in each transaction/ Would this create additional costs?*  *Are there any disadvantages to requiring transfers of number to occur in standard unit sizes under the numbering plan, noting this is already standard practice in the Numbering System?* |

3.19 Twilio supports the proposal to change standard unit blocks to 10,000 as it will promote the efficient allocation of numbers. In particular, Twilio supports this proposal as it provides a path for a CSP such as Twilio that may have been sub-assigned a block of 10,000 numbers by a CSP who is an original allocatee, to request transfer of this smaller block of numbers from the assignor at a later stage so that the numbers are in their name on the Numbering System. This allows a CSP to adjust their business models as their companies grow.

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| *Are there any reasons to retain LICS?* |

3.20 Twilio supports the withdrawal of the LICS numbers.

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| *Do you support decreasing the notice period CSPs must give customers before recalling or replacing a number? Please specify why or why not?*  *Is 90 business days sufficient to allow customers including small business owners to make necessary changes to accommodate a new number?* |

3.21Twilio supports decreasing the notice period CSPs must give customers before recalling or replacing a number from the currently outdated one year period specified in the Numbering Plan. This was one issue that was discussed in the Communications Alliance meetings on the Number Management Code and Twilio notes that the draft Number Management code submitted for registration currently specifies a period of 30 Business Days for recall and replacement of a number or a shorter period if the customer agrees to a shorter notice period. This was based on standard industry practice.

3.22 Twilio is concerned that having two different periods specified in the revised Numbering Plan and in the Number Management Code is likely to cause confusion to both CSPs and consumers as to what their rights and obligations are in relation to a recall and replacement of numbers. Whatever ACMA decides about the correct shorter period, Twilio suggests that the two documents must be aligned.

1. Refer IPND Code clauses 2.2 and 4.2.1 [↑](#footnote-ref-1)