

To: The Manager
National Interests Section
Australian Communications and Media Authority
By online submission

Date: 7 March 2025

Re: Submission in relation to proposed amendments to the
*Telecommunications (Emergency Call Service) Determination
2019*

Part A – Introduction

Cooper Mills Lawyers acts for a number of Australian telecommunications CSPs and makes this submission in that capacity. The submission particularly relates to mobile virtual network operators.

Part B – Executive Summary

It is submitted that, in the case of end-users of a mobile network, welfare checks under the Determination should be undertaken by the relevant MNO rather than by an MVNO.

Part C – Dictionary

In this submission:

| the expression: | means: |
|---------------------------|---|
| carriage service provider | as in the Telco Act |
| carrier | as in the Telco Act |
| CSP | carriage service provider |
| Determination | <i>Telecommunications (Emergency Call Service) Determination 2019</i> |
| end-user | as in the Determination |
| MNO | mobile network operator |
| mobile network | a telecommunications network by means of which a public mobile telecommunications service is supplied |
| mobile network operator | a carrier that operates a mobile network |

| the expression: | means: |
|--|--|
| mobile virtual network operator | a CSP that supplies a public mobile telecommunications service by means of an MNO's mobile network |
| MVNO | mobile virtual network operator |
| public mobile telecommunications service | as in the Telco Act |
| Telco Act | <i>Telecommunications Act 1997</i> |
| telecommunications network | as in the Telco Act |

Part D – Welfare Checks

- 1 Section 28 of the Determination should be amended to provide that, where there is a major outage or significant local outage in a mobile network operated or controlled by a carrier, a reference in the section to a carriage service provider is taken to be a reference to that carrier.
- 2 The effect of the amendment would be that, in the case of a mobile network outage, the relevant MNO, and not an MVNO, would be responsible for undertaking welfare checks.
- 3 The amendment is appropriate because:
 - (a) Each Australian MNO has a large retail customer base, in addition to any MVNOs it may supply on a wholesale basis. As such, each MNO has a sophisticated capability to undertake welfare checks.
 - (b) Where there is an outage in a mobile network, the relevant MNO has the first and best knowledge of it, and can undertake a welfare check most rapidly. The additional effort required of the MNO would be marginal.
 - (c) Given the urgency with which welfare checks should be undertaken, it is undesirable that customer and emergency call data should be passed down the supply chain to allow a welfare check to be made by an MVNO. That involves unnecessary double handling and delay.
 - (d) There are three MNOs, each of which is large and well-resourced. Many MVNOs are much smaller and much less resourced. It can be anticipated that customers of smaller MVNOs may be subject to less timely and effective welfare checking than customers of the MNOs and large MVNOs.
 - (e) An MNO immediately holds all the information required to undertake a welfare check, as all that is necessary is the service number.
 - (f) Although the existing language of section 28(1) would allow an MVNO and an MNO to agree that the MNO will undertake welfare checks on behalf of the MVNO, it is preferable that this is the mandated norm.

- 4 It may be objected that an MNO has no relationship with an MVNO end user. That is neither true nor relevant.

An MNO has no *contractual* relationship with an MVNO end user but it has a very material *factual* relationship: the end user's service is *factually* provided by the MNO, and a failed attempt to call an emergency service is *factually* the result of an outage in the MNO's network.

If the aim of the Determination is that telecommunication consumers should be subject to the best and most timely welfare checking, it is appropriate that the entity that is *factually* closest to the network, the outage, the failed emergency service call and the end user, and which has (or can readily develop) the capacity to welfare check end users on behalf of its client MVNOs, should do so.

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