Fees analysis statement
Charges for delegated numbering administration services provided by the Industry Number Management Services for the period 1 July 2014 to 31 July 2015

JUNE 2014
Canberra
Red Building
Benjamin Offices
Chan Street
Belconnen ACT
PO Box 78
Belconnen ACT 2616
T +61 2 6219 5555
F +61 2 6219 5353

Melbourne
Level 32
Melbourne Central Tower
360 Elizabeth Street
Melbourne VIC
PO Box 13112
Law Courts
Melbourne VIC 8010
T +61 3 9963 6800
F +61 3 9963 6899

Sydney
Level 5
The Bay Centre
65 Pirrama Road
Pyrmont NSW
PO Box Q500
Queen Victoria Building
NSW 1230
T +61 2 9334 7700
1800 226 667
F +61 2 9334 7799

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Written enquiries may be sent to:
Manager, Editorial and Design
PO Box 13112
Law Courts
Melbourne VIC 8010
Tel: 03 9963 6968
Email: candinfo@acma.gov.au
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1 Introduction

1.1 Purpose
The purpose of this statement is to set out and assess the proposed charges for delegated numbering administration services for consistency with the full cost recovery methodology.

1.2 Background
The ACMA is Australia’s regulator for telecommunications, broadcasting, radiocommunications and the internet.

The ACMA has outsourced the administration of certain telecommunications numbering services—the allocation and surrender of freephone, local rate and premium rate numbers—to Industry Number Management Services Ltd (INMS). INMS provides these delegated services to registered subscribers. These subscribers then use the numbers obtained from INMS to provide telephone services to their end user customers. Power to deliver these services has been delegated to INMS under the Telecommunications Numbering Plan 1997 and subsection 467(1) of the Telecommunications Act 1997.

INMS is an industry-managed not-for-profit company owned by four of the major registered subscribers—Telstra, Optus, Primus and AAPT. It has been providing freephone and local rate services since November 2000, and premium rate services since March 2004. On 29 January 2010, the Commonwealth of Australia, represented by the Chief Executive of the ACMA, and INMS entered into a new contract under which INMS would continue to provide these services for a minimum period of between 1 February 2010 and 31 January 2012. The ACMA subsequently exercised options to extend this contract until 31 January 2015.

In March 2014, the ACMA released a Request for Tender for the provision of numbering services with a new service delivery model that will expand the range of outsourced numbering administrative services. To allow sufficient time to complete the procurement process and associated transition arrangements, the contract between the ACMA and INMS has been extended until 31 July 2015.

INMS also provides a number of non-delegated services to the telecommunications industry. These services are not set out under the contract between the ACMA and INMS and are not subject to cost recovery arrangements.

Under the original contract between the ACMA’s predecessor, the Australian Communications Authority (ACA), and INMS, charges were determined by INMS using a full cost recovery methodology. However, unlike the ACA, which was subject to the Commonwealth Authorities and Corporations Act 1997 (CAC Act), the ACMA was established as an agency subject to the Financial Management and Accountability Act 1997 (FMA Act). Consequently, under the current contract INMS charges for delegated services must be formally determined in writing by the ACMA, under either section 60 of the Australian Communications and Media Authority Act 2005 (ACMA Act) or section 13 of the Telecommunications (Numbering Charges) Act 1997 (Numbering Charges Act).
The Telecommunications Act gives the ACMA the necessary authority to impose charges for the delegated numbering administration services. The ACMA and INMS sought independent legal advice about the determination of INMS fees during contract negotiations. After consideration of this advice, the fees have been determined under section 13 of the Numbering Charges Act. This arrangement is consistent with the INMS’s status as a not-for-profit organisation.

Charges set under the Numbering Charges Act are not strictly required to comply with Commonwealth cost recovery requirements.
2 Policy and legal authority

2.1 Policy objective
The policy objective of recovering the regulatory costs for delegated numbering administration services is essentially ensuring that those who created the need for the regulation contribute towards its costs.

INMS uses a largely automated system to provide delegated services on behalf of the ACMA. Managing the allocation and surrender of numbers is a statutory function. INMS-registered subscribers and their end user customers create the need for this service—accessing numbers as part of the provision of telephone services. These service providers will be able to recover costs from the end users who receive services on the numbers.

2.2 Legal requirements for the imposition of fees
Under section 455 of the Telecommunications Act, the ACMA must make a written instrument (numbering plan) for the numbering of carriage services in Australia. Among other things, the numbering plan may set out rules about the allocation, transfer and surrender or withdrawal of numbers in accordance with subsection 455(5) of the Telecommunications Act. This written instrument is already in place.

Section 467(1) of the Telecommunications Act provides that the ACMA may, by writing, delegate all or any of the powers conferred on it by the numbering plan to a body corporate. The ACMA has delegated a series of powers relating to the allocation and surrender of numbers to INMS. These include the powers relating to the services subject to the charges below.

Under the Numbering Charges Act, the ACMA can impose charges for numbers allocated to certain carriage service providers under the Telecommunications Act. Under section 11 of the Numbering Charges Act, if a number is allocated to a carriage service provider other than in accordance with an allocation system (which is the case here), a charge is to be imposed on the allocation of the number. Section 12 of the Numbering Charges Act provides that the charge is payable by the carriage service provider.

Under section 13 of the Numbering Charges Act, the amount of the charge imposed on the allocation of the number is the amount set out in a written determination made by the ACMA. This determination is a disallowable instrument for the purposes of section 46A of the Acts Interpretation Act 1901.

There is no restriction under section 14 of the Numbering Charges Act requiring that the charge be set on a cost recovery basis or not amount to a tax. However, the maximum charge that can be imposed on the allocation of a number is $100,000.

In summary, the ACMA determines the amount of fees for the INMS delegated number services under section 13 of the Numbering Charges Act and the Telecommunications (Numbering Charges – Delegated Services) Determination reflects the fees.
2.3 Policy requirements for delegated activities

Contractual requirements for INMS reporting on its delegated service costs and revenues, and the determination of INMS fees, were introduced to ensure that arrangements between the ACMA and INMS are consistent with the Telecommunications Act and the FMA Act, and take into account the application of full cost recovery methodology. Under the contractual arrangements, INMS must provide information that will enable the ACMA to determine fees on a full cost recovery basis.

The revenue from delegated services is collected by INMS and deposited into the ACMA’s account on a monthly basis. INMS then issues the ACMA a monthly tax invoice for its service fee, which is equal to the amount of revenue collected by INMS for that month plus GST.

2.4 Liability to pay cost recovery fees

The primary stakeholders for delegated services are the registered subscribers who pay for the service. These parties self-identify by choosing to register with INMS in order to receive services, such as the allocation and surrender of freephone, local rate and premium rate numbers. These services are then used as part of the subscriber’s normal means of business. There are currently 33 active registered subscribers. These registered subscribers are considered carriage service providers.

A secondary group of stakeholders are the end users receiving services from registered subscribers. This group of stakeholders is fragmented and difficult to identify as they have no direct dealings with the ACMA or INMS. Consequently, it would be difficult for the ACMA or INMS to recoup the cost of service provision from the service end users. However, because of the commercial relationship between registered subscribers and end users, registered subscribers are able to recoup the costs charged for allocation and surrenders directly from the end users to whom they provide services.
3 Cost recovery model and charging structure

3.1 Costs recovery model

It is a requirement for INMS to separately identify the financial transactions that relate to delegated services as the delegated service charges must be determined in writing by the ACMA.

As part of this process, the proposed costs that are based on full costs of service provision and charging methodology for delegated services have been subject to review by an independent auditor engaged by the INMS for quality assurance purposes. The audit specifically reviews the application of the cost recovery principles. An audit on proposed charges was undertaken by HLB Mann Judd (NSW Partnership) during April 2014, who presented an independent audit report. The report confirms the charging methodology and that INMS costs attributable to the delegated services were calculated on a cost recovery basis.

The allocations of expenditure between delegated and non-delegated operations are based on an analysis of prior year expenses. However, many expenses are not directly attributed to delegated or non-delegated services. Where invoices received do not make it possible to differentiate between delegated and non-delegated services, an allocation of 50 per cent has been applied. This allocation method has been determined based on the historical proportion of delegated income to total income averaged over the 2011, 2012 and 2013 financial years. Allocation percentages applied to common expenses are set out and explained in Table 1.

Table 1 Basis of allocation of common costs to delegated activities 2014–15

<table>
<thead>
<tr>
<th>Expense Item</th>
<th>Basis of allocation</th>
<th>Percentage of allocation 1 July 2014 to 31 July 2015</th>
<th>Percentage of allocation 2013–14</th>
</tr>
</thead>
<tbody>
<tr>
<td>Legal fees</td>
<td>Actual expenditure for the relevant period in the financial years 2011–12 and 2012–13</td>
<td>90%</td>
<td>90%</td>
</tr>
<tr>
<td>Accounting and audit fees</td>
<td>Actual expenditure for the relevant period in the financial years 2011–12 and 2012–13</td>
<td>56%</td>
<td>60%</td>
</tr>
<tr>
<td>Consultancy</td>
<td>Actual expenditure for the relevant period in the financial years 2011–12 and 2012–13</td>
<td>70%</td>
<td>70%</td>
</tr>
<tr>
<td>Software depreciation</td>
<td>A percentage of allocation between delegated and non-delegated is designated in the company's intangible assets register when the items of software are purchased and is based on their expected usage</td>
<td>65%</td>
<td>65%</td>
</tr>
<tr>
<td>Information Technology (IT) maintenance and support</td>
<td>Forecast number of delegated service transactions expected to occur in the 2013–14 financial year</td>
<td>54%</td>
<td>51%</td>
</tr>
<tr>
<td>All other costs</td>
<td>Proportion of average delegated income to total income for the last three financial years</td>
<td>50%</td>
<td>50%</td>
</tr>
</tbody>
</table>
Based on the above allocation basis, INMS has developed the cost estimates set out in Table 2 below for delegated services for the period 1 July 2014 to 31 July 2015. While labour expenses include salaries, superannuation and board-sitting fees, the operating expenses essentially include consultancy fees, IT maintenance expenses and insurance. Legal and financial fees include accountancy and audit fees.

### Table 2 Summary of financial information for delegated activities

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Labour expenses</td>
<td>$115,310</td>
<td>$91,161</td>
<td>$144,000</td>
<td>$136,813</td>
</tr>
<tr>
<td>Operating expenses</td>
<td>$936,657</td>
<td>$927,513</td>
<td>$1,000,000</td>
<td>$1,525,967</td>
</tr>
<tr>
<td>Legal and financial expenses</td>
<td>$46,090</td>
<td>$18,376</td>
<td>$100,000</td>
<td>$85,900</td>
</tr>
<tr>
<td>Amortisation of IT software</td>
<td>$9,181</td>
<td>$7,928</td>
<td>$20,000</td>
<td>$17,288</td>
</tr>
<tr>
<td>Total expenses</td>
<td>$1,107,238</td>
<td>$1,044,978</td>
<td>$1,264,000</td>
<td>$1,765,968</td>
</tr>
<tr>
<td>Total revenue</td>
<td>$1,250,856</td>
<td>$1,110,194</td>
<td>$2,121,000</td>
<td>$1,282,464</td>
</tr>
<tr>
<td>Surplus/(deficit)</td>
<td>$143,618</td>
<td>$65,216</td>
<td>$857,000</td>
<td>($483,504)</td>
</tr>
</tbody>
</table>

In the 2012–13 financial year, INMS reported a surplus of $65,216 for its delegated services, which is lower than the budgeted surplus of $143,618. Although INMS managed to contain its costs in the 2012–13 financial year, the predicted demand was not achieved. In the 2013–14 financial year, however, INMS is anticipating a significant surplus of $857,000. This is essentially due to a one-off request for an unusually large quantity of numbers for allocation purposes. This surplus is expected to be used for absorbing previous deficits and the budgeted deficit for the period 1 July 2014 to 31 July 2015, which is primarily attributable to an increase in IT service costs arising from a transfer to a new IT provider. The forecast for legal and financial expense remains high during 2014–15 as the INMS prepares for the outcomes of the tender process.

Based on the quantum of the surplus left over at the end of the current contract (that is, 31 July 2015), INMS is expected to offset the deficit of $227,250 that it incurred in the 2011–12 financial year. The directors do not anticipate recovery of further losses from prior years.

### 3.2 Charging structure

The delegated services provided can be classified as one of two types—number allocation services or number surrender services. There are six different number allocation services and two types of surrender services provided by INMS to registered subscribers. A registered carriage service provider who has been allocated a number can surrender the number back to the INMS.

Details about the various types of services can be found at Appendix 1.

For reasons of legal and administrative simplicity, there are no separate fees imposed for number surrender services. This is consistent with ACMA policy on the numbers it administers, for which there are no surrender charges. The fees for number allocation
services are determined using the estimated staff effort spent for each category, the estimated number of applications for each category and the total costs to be recovered from the industry. Relevant over or under recovery of costs from the previous periods are also included appropriately in the total costs to be recovered from the industry, in accordance with the contract for provision of services with the ACMA. The proposed fees for the period 1 July 2014 to 31 July 2015 are provided in Table 3.

Table 3 Proposed fees for the period 1 July 2014 to 31 July 2015

<table>
<thead>
<tr>
<th>Numbering services</th>
<th>Current fee</th>
<th>Proposed fee</th>
<th>Estimated number of applications</th>
<th>Estimated revenue</th>
</tr>
</thead>
<tbody>
<tr>
<td>Issues</td>
<td>$34.00</td>
<td>$34.00</td>
<td>32,555</td>
<td>$1,106,870</td>
</tr>
<tr>
<td>Reserve</td>
<td>$22.00</td>
<td>$22.00</td>
<td>3,047</td>
<td>$67,034</td>
</tr>
<tr>
<td>Reserve extend</td>
<td>$22.00</td>
<td>$22.00</td>
<td>68</td>
<td>$1,496</td>
</tr>
<tr>
<td>Withhold</td>
<td>$22.00</td>
<td>$22.00</td>
<td>3,855</td>
<td>$84,810</td>
</tr>
<tr>
<td>Withhold extend</td>
<td>$22.00</td>
<td>$22.00</td>
<td>132</td>
<td>$2,904</td>
</tr>
<tr>
<td>Quarantine release</td>
<td>$45.00</td>
<td>$45.00</td>
<td>430</td>
<td>$19,350</td>
</tr>
<tr>
<td><strong>Total estimated revenue</strong></td>
<td></td>
<td></td>
<td></td>
<td><strong>$1,282,464</strong></td>
</tr>
<tr>
<td><strong>Less: estimated cost of services (see Table 2)</strong></td>
<td></td>
<td></td>
<td></td>
<td><strong>$1,765,968</strong></td>
</tr>
<tr>
<td><strong>Estimated under recovery 1 June 2014 to 31 July 2015</strong></td>
<td></td>
<td></td>
<td></td>
<td><strong>($483,504)</strong></td>
</tr>
</tbody>
</table>

The fee for services other than issues and quarantine releases are equal, reflecting the automated process that requires an equivalent amount of staff effort to process. In the case of number issues and quarantine releases, additional effort is required to process the surrender applications (as they form part of number issues) and to process manual applications for quarantine releases.

The estimated number of applications for the period 1 July 2014 to 31 July 2015 has been determined on the following basis:

> for the periods July 2014 to December 2014 and April 2015 to July 2015—two-year rolling average of actual transaction numbers that occurred in 2012 and 2013, normalised for periods where transaction levels are not representative of expectations
> for the period January 2015 to March 2015—two-year rolling average of actual transaction numbers occurring in 2013 and 2014 for the same period.

Based on this estimate, INMS expects a deficit of $483,504 for the period 1 July 2014 to 31 July 2015 if the current fees are kept at the same level. However, the INMS Board proposes to keep the delegated service fees unchanged and incur the deficit given the projected surplus in the 2013–14 financial year.
4 Stakeholder engagement

No stakeholder consultation is required as there is no change to the fee structure. INMS will advise the registered subscribers of this position.
Appendix 1

Number allocation services provided by INMS to registered subscribers

1. Issue
   The issue of a number involves its allocation for use with a connected service being used to supply services to an end user. A number may be issued with or without a registered subscriber previously withholding or reserving the number.

2. Early release quarantine
   Registered carriage service providers who no longer require an issued number can cancel (surrender) that number. Cancelled numbers enter a period of quarantine, generally for six months. Only the service provider that last held the number can apply for its allocation by early release from quarantine during this period. The number is then released from quarantine and reissued to the same service provider and end user.

3. Reserve
   Reserving a number is the conditional allocation of the number, on application by a registered carriage service provider, for a period that will give that provider time to establish a service in connection with the allocated number for itself or a contracted customer. The number is not connected to a service at this time. A number can be reserved for a period of up to 90 days.

4. Reserve extend
   This allows the reservation of the number to be extended for an extra 30 days.

5. Withhold
   Withholding of a number is the conditional allocation of the number to allow a potential customer to consider the use of a small quantity of numbers. A number can be withheld for a period of up to 14 days.

6. Withhold extend
   This allows the withholding of the number to be extended for an extra 14 days.

Number surrender services provided by INMS to registered subscribers

1. Cancellation
   A service provider who has been issued a number may choose to cancel (surrender) that number back to INMS. This will place the number into quarantine. After the quarantine period has expired, the number may then be allocated by INMS to the same or a different registered subscriber.

2. Return
   A subscriber who has been conditionally allocated a number but does not wish to proceed to an issue/allocation of the number may surrender the number by returning it. A returned number is not placed into quarantine.