



# Registration or Licensing Scheme for Carriage Service Providers – Discussion paper

## Twilio Comments

December 2023

Twilio welcomes the opportunity to respond to the 2023 Discussion Paper released by the Department of Infrastructure, Transport, Regional Development, Communications, and the Arts (the “Department”) in relation to the registration or licensing of carriage service providers (“CSPs”). We appreciate the consideration that is being given to the existing telecommunications consumer protections frameworks and whether they remain fit for purpose.

While Twilio generally supports the proposal to introduce a registration scheme for CSPs, we believe there are a number of elements worthy of consideration by the Department. These include the lack of precision in the current term ‘CSPs’ given the existing market, as well as the design, implementation, operation and enforcement of the scheme. These points are laid out below.

Twilio looks forward to continuing to participate in this consultation process and remains available to discuss next steps around the possible introduction of a registration process.

### ABOUT TWILIO AND STATEMENT OF INTEREST

Twilio is a global provider of cloud communications and customer engagement services, with over 300,000 active customer accounts globally. Twilio's products and services allow organisations of all sizes, including non-profits, governments, and businesses, to embed communications capabilities in their web, desktop, and mobile applications, enabling them to communicate more efficiently and effectively with their customers.

Twilio has been present in Australia since 2018, and powers the communications behind thousands of organisations across Australia in numerous sectors. Major brands we support include Westpac, Domino's Pizza, and Woolworths.

Australia is an important market for Twilio, and we are keen to continue participating in policy discussions and developments in the country, particularly those relating to the regulatory environment for the telecommunications sector.

### TWILIO COMMENTS

#### Coverage

Twilio believes that all CSPs, as currently defined, should be covered by any registration scheme. An important caveat is that different categories of registration should cater to the varying types of CSPs, as discussed in the “Categories of CSPs” section of this submission. In the first instance this approach will remove any doubt as to whether a CSP is “in” or “out” of the scheme.



Additionally, if all participants are covered the regulator has a better opportunity to ensure that efforts to inform/educate/update CSPs on their obligations and responsibilities are having the greatest effect.

### **Categories of CSPs**

There has been a significant diversification of the telecoms market over the last ten years as technology has evolved at an unprecedented pace. Services, products and providers have emerged and established themselves leading to many benefits for the economy and consumers. However, the key terminology used to govern this space is now over-extended and covers a wide range of service providers outside the intended scope. As the government looks at ways to regulate this new market landscape, we encourage a nuanced and contemporary approach that reflects the operational reality.

The *Telecommunications Act 1997* (the Act) was designed and enacted to promote open competition and market diversity in the provision of telecommunication services to Australians. This approach brings many benefits for consumers such as increased product variety, competitive pricing, increased product quality, access to unique or specialised products and increased innovation.

At the time distinguishing between carriers and CSPs was a conceptually significant change in the sector, however technology, and CSPs in particular, have evolved considerably. For example ‘CSP’ currently captures a group of service providers that are bringing vastly different products and services to individuals and or businesses than could have been imagined in the late nineties.

As noted by Communications Alliance ‘while some CSPs provide the sole source of connection an individual has beyond their home, others focus on providing marketing-related capabilities to businesses of all sizes (including small businesses) as B2B services.’<sup>1</sup> It is crucially important that regulatory terminology appropriately reflects the diversity of the market so that it can best achieve intended outcomes without stifling innovation.

In this context, we propose that CSPs are put into classes as part of the CSP registration process to reflect the diversity in the market. Classes could include service types such as Business CSP or Residential CSP to create relevant and useful distinctions. Classes of CSP would more effectively meet the objective of increasing visibility of those operating in Australia. Classes would also better support the work of the Australian Communications and Media Authority (“ACMA”) to educate providers about their obligations and target enforcement activity.

**Recommendation 1:** The definition of CSP is updated to reflect the diversity of the telecommunications market in 2023 such as by creating classes or subcategories of CSPs.

### **Registration of CSPs**

Twilio supports the proposal to introduce a registration process for those currently captured as CSPs in Australia and agrees with much of the reasoning outlined in the discussion paper. In particular, the integrity of the industry, including consumer protection, will be improved if regulators have access to a comprehensive source of CSPs. Even more so, regulators will be able to efficiently and appropriately sanction bad actors if they can identify them and their service offering in one place.

Industry participants will also benefit from a well-designed, contemporary registration regime. In particular, such a regime would enable CSPs to have a clear and unambiguous understanding of their

<sup>1</sup>

[https://www.commsalliance.com.au/data/assets/pdf\\_file/0003/95637/CA-Sub-re-Draft-Financial-Hardship-Standard-271123.pdf](https://www.commsalliance.com.au/data/assets/pdf_file/0003/95637/CA-Sub-re-Draft-Financial-Hardship-Standard-271123.pdf) (accessed 8/12/23)



specific obligations. These can include issues such as membership with the Telecommunications Industry Ombudsman (“**TIO**”), cyber security reporting, industry codes (e.g., the Reducing Scam Calls and Scam SMS industry code (C661:2022)<sup>2</sup>) and other regulatory matters, including entities that are required to sync with the Integrated Public Number Database<sup>3</sup>.

### **Design**

Twilio strongly supports the proposition that a registration scheme should be “light touch”, consistent with the points laid out on page 11 of the Discussion Paper. Registration should be simple and information requirements kept to a minimum, requiring information already in the public domain (i.e., company director information, contact information and contact person and not extend to financial planning, technical issues, or other information that is arguably commercial-in-confidence).

A registration scheme should not become a source of general revenue for the government by keeping registration fees to a minimum and not exceeding the costs of supporting the registration process.

There should be obligations on CSPs to ensure information in the register is kept up to date. Twilio strongly believes the register should be controlled, operated, and managed by the ACMA, and not outsourced to a third party.

The Discussion Paper notes that Singapore currently operates a registration scheme for Service Based Operators (analogous to CSPs in the Australian context) and the scheme operates via an online portal, requires minimal information be provided and does not impose excessive fees. Twilio currently operates in Singapore, and believes its registration approach might serve as a useful model for the development of an Australian scheme.

**Recommendation 2:** The registration scheme should be light touch, requiring only publicly available inputs and registration fees should be low so as not to create a barrier.

**Recommendation 3:** There should be an obligation on registered participants to ensure information in the register is kept up to date.

**Recommendation 4:** The register should be controlled, operated, and managed by the ACMA, and not be outsourced to a third party.

### **Integration**

Twilio notes the commentary in the Discussion Paper regarding integrating the registration process with existing CSP processes. Rather than creating a registration process that tacks onto existing processes, Twilio proposes that by registering as a CSP other processes should follow, i.e., registration becomes the ‘front door’ to the regulatory system.

In this situation, registration would automatically trigger membership of the TIO for eligible CSPs and create a registration on the Communications Compliance CSP Portal. It would also link to the Register

<sup>2</sup> Copy available at: <https://www.commsalliance.com.au/Documents/all/codes/c661>

<sup>3</sup> As described at: <https://www.acma.gov.au/give-information-ipnd>



of Critical Infrastructure Assets<sup>4</sup> and provide CSPs with the opportunity to provide any information applicable to their operations.

Such an approach also supports the opportunity to address a long-standing concern of some CSPs, including Twilio, which relates to the requirement for all CSPs to adhere to the same set of consumer protection standards irrespective of the types of services they provide.

Specifically, CSPs are required to comply with many codes and standards that are designed with the residential customer and vital connectivity in mind. Such standards create unnecessary barriers for innovators who must build systems and processes for compliance, even if the CSP does not offer retail connectivity services directly to consumers i.e., its service offering is B2B.

Coupled with a registration system that registers CSPs according to different categories (as recommended in the “Categories of CSPs” section of this submission), this approach of having other regulatory processes flow from the registration would allow for different regulatory processes to be tailored and stipulated to apply to each different category of CSPs. For example, this would allow for processes/frameworks designed to protect residential customers to only apply to the category of [“Residential CSPs”].

**Recommendation 5:** The register should be integrated with other existing registers managed by government, agencies and bodies. The integration should also reflect regulatory requirements of the registering participant.

### **Mechanisms to Ensure Registration**

There should be a legislated obligation for any person or business who operates as a CSP (as currently defined) to register. Twilio acknowledges that a requirement to register is not in itself sufficient, as evidenced with current issues around CSPs failing to enter into the TIO scheme. To address this, consideration should be given to applying financial penalties to an organisation and its directors where an organisation is operating as a CSP, but has failed to register under the scheme.

**Recommendation 6:** There should be an enforceable mechanism attached to strong penalties for those who operate as a CSP in Australia but do not register.

### **Compliance and Enforcement.**

Twilio strongly supports the proposition that sanctions should apply to CSPs who do not meet their obligations under the proposed registration scheme.

Consistent with the general regulatory arrangements applied to the telecommunications sector a graduated series of penalties should apply to CSPs found in breach. Ultimately repeat offenders should be deregistered and excluded from registration.

Review and appeal mechanisms should also be a feature of the scheme to ensure that natural justice applies. In this regard the approach to enforcement of the register should mirror the approach of the ACMA in regard to other aspects of telecommunications regulation.

While the registration scheme needs an effective set of enforcement and sanction arrangements, the first priority should be to inform and educate CSPs of their obligations and to provide adequate and

<sup>4</sup> <https://www.cisc.gov.au/critical-infrastructure-centre-subsite/Files/register-critical-infrastructure-assets.pdf>



ongoing information to assist this education effort. By prioritising education of the sector Twilio believes consumers will benefit overall by raising standards across the sector.

When undertaking compliance activities, the focus should be on poor performing CSPs, identified by way of consumer complaints, industry intelligence, or other means. The focus should not be on imposing additional and unnecessary costs and obligations on better performing CSPs.

**Recommendation 7:** The ACMA should be responsible for informing CSPs of their obligations and to provide adequate and ongoing information to assist this education effort.

**Recommendation 8:** There should be a graduated series of penalties for CSPs found in breach of the registry. Repeat offenders should be deregistered and directors related to deregistered CSPs excluded from future registration.

## CONCLUSION

Twilio believes that trusted telecommunications services can be an even greater driver of business innovation and economic growth in Australia. We support the Government's approach to targeted governance responses to protect consumers and maintain public trust while ensuring the opportunity for new and innovative business services to evolve.

Twilio hopes the comments and recommendations above will assist the Department in assessing whether the existing telecommunications framework remains fit for purpose.

Twilio thanks the Department for this valuable opportunity to contribute to the ongoing development of Australia's telecommunications ecosystem. We look forward to continuing to engage in constructive dialogue with all relevant stakeholders on this important subject.