AMTA GUIDELINES

LOCATION SERVICE PROVIDERS

FOR THE USE OF MOBILE TECHNOLOGY TO PROVIDE PASSIVE LOCATION-BASED SERVICES IN AUSTRALIA

November 2010
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1 Introduction & Overview

1.1 Overview
Mobile devices are carried by most of the population most of the time. This pervasiveness means that mobile devices are uniquely positioned to be able to add location information to everything we do whilst mobile.

A number of location-based services (LBS) using mobile technology are already available to consumers, with more services expected in the near future. This presents exciting opportunities for consumers and business alike.

While the benefits of LBS are expected to be substantial, the application of such services means that there is some potential for misuse.

The purpose of these Guidelines is to define the principles of good practice for the provision of LBS. The document aims to outline the potential issues and risks associated with the misuse of LBS services and to outline how Location Service Providers (LSPs) can achieve best practice in addressing the risks. It provides a benchmark for the responsible delivery of LBS, acknowledging that LSPs must provide LBS in a responsible and accountable manner to ensure that customer privacy and safety are adequately safeguarded.

These Guidelines have been developed by a working group (the Working Group) consisting of members of the Australian Mobile Telecommunications Association (AMTA). The Internet Industry Association (IIA) has also indicated its support for AMTA's work in this area.

These Guidelines are intended to be reviewed from time to time to take account of industry and consumer feedback and ensure they are up-to-date.

1.2 What is a Location-based Service?
A location-based service, or LBS, is any information, entertainment or social media service/application available on a mobile device that makes use of the device’s geographic position.

Location-based services can be active or passive, or in the case of more complex services, a combination of both.

Active LBS
Services where a user locates only their own position (or more accurately, the location of their mobile device), are referred to as ‘active’, because the user is actively seeking their own location or information contextualized to their location.

Information is typically supplied by the LSP in the form of an address, a map, or directions, based on the customer’s location. Examples of such services include: “where is my nearest chemist/cash machine/cinema?” or, show my mobile device on the map.”

AMTA believes there are no significant safety issues associated with such active location-based services as the user is locating only their own position or that of their own mobile device.
Active location-based services are therefore not covered by these guidelines.

**Passive LBS**

Services that enable a user to be located by someone else are referred to as ‘passive’ location services. Once the user has consented to and initiated use of the service, identified third parties may view the location of that user’s device without explicitly notifying the locatee each time their device is being located. In this sense, the locatee is essentially a passive participant in the location process after providing their initial consent.

There is some potential for misuse of passive LBS, with consumer privacy and safety concerns.

These Guidelines outline the minimum practical steps that LSPs should apply to the provision of passive location-based services to prevent misuse.

1.3 Scope and objectives of these Guidelines

These Guidelines are intended to cover any passive location-based service that uses a mobile or wireless network, regardless of the format in which that information is supplied (GPS, cell-based positioning data, etc.).

The Guidelines are designed to provide advice to LSPs about the consumer protection measures they should implement when offering location-based services. They provide a framework to assist LSPs appropriately assess and manage the risk that the services they offer will be misused.

The Guidelines aim to follow the privacy principles laid out in the National Privacy Principles and other legislation. They provide additional guidance for LSPs in the implementation of privacy protection in the use of passive LBS.

As it is not possible to address all possible service types or delivery models with any Guideline, these Guidelines consider a range of different service types to illustrate the minimum practical steps that the Working Group believes LSPs should take to address risk associated with such services.

The Guidelines address the following service types:

- Location-based services for business (people or assets)
- Mobile location-based advertising
- Friend location-based services (known friends – closed user group)
- Anonymous chat and dating location-based services (over 18s only).
- Mobile games
  - for under 18s
  - for over 18s
1.4 Underpinning principles
These Guidelines are underpinned by the following principles:

Passive location-based services:

- **must be consent-based.** That is, each and every LBS must be provided on an opt-in basis. Consent for one LBS does not equate to consent to any other LBS.

- **must conform with all relevant privacy legislation** (both national and state/territory).

- **must not be used to undermine customer privacy** and, in particular, must not be used for any form of unauthorised surveillance.

- **must allow locatees to maintain full control** over who may use their location information and at what times:
  - A customer must have easy access to a list of the identities of all parties authorised to locate their mobile device via the location-based service;
  - LBS must be easy for the consumer to stop or temporarily suspend; and
  - The service must be designed to guard against consumers being located without their knowledge.

- **must ensure that prospective locators are aware of, and actively accept, any relevant Terms and Conditions (T&Cs).**

- **must be supported by clear advice** to consumers to ensure that they are clearly informed about how the LBS operates and how to use it. This includes:
  - key safety messages and privacy information;
  - provision of standard and ongoing charge rates for each particular service, as applicable; and
  - details about customer care / how to obtain further assistance.

For example, depending on the service, it may include information about:

- obtaining consent;
- protection mechanisms (e.g. alert messages or visual design reminders, how to obtain details of who can locate them, etc.);
- stopping or suspending a service, including, where appropriate, information advising the customer of their responsibility to de-register for a service should their circumstances change; and
- the LSP’s approach to the disclosure of location data when a locatee’s mobile device is switched off – i.e. so customers understand that a device cannot be located when it is switched off.
This information should be easily available and highly visible to customers. Suitable mechanisms may include in the Terms and Conditions of the customer contract, on the LSP’s website and through other suitable mechanisms, including customer care call centres.
2 Risk Management

There is some potential for misuse of passive location-based services, with consumer privacy and safety concerns. It is the responsibility of the LSP to ensure that any service offered to consumers, whether on a paid or free basis, is only offered after consumer protection measures have been considered and appropriately addressed.

These Guidelines are designed to provide advice to LSPs about the consumer protection issues they must consider when offering location-based services and possible measures to address concerns.

It is not possible to address all service types or delivery models with any Guideline. Although adherence to these Guidelines may appropriately address the risk associated with passive LBS services, it is the responsibility of each LSP to manage its risk to ensure ongoing compliance with current laws and the principles outlined in this document (and subsequent updates). It is strongly recommended that LSP maintain a risk matrix to identify and manage risk for each service offered. This would include maintaining appropriate records to document relevant procedures and actions. LSPs should also ensure appropriate compliance processes are in place.
3 Guidance on the provision of specific services

The underpinning principles outlined in Section 1.4 above, along with the relevant detail as set out in the Annexes, provide clear guidance to LSPs on responsible provision of location-based services as a whole.

There are additional service-specific issues that LSPs should also address. This section outlines these extra provisions for a number of common services.

3.1 Location-based services for businesses (people or assets)

3.1.1 What this section covers
This section of the Guidelines lays out the additional principles of good practice that should be followed by those providing passive LBS specifically targeted at corporations, including all types of businesses, local authorities, government, charities and other organisations.

This section excludes LBS delivered to non-business/personal consumers; these services are covered separately within this Guideline.

3.1.2 Examples of LBS services covered
Services covered by this section include those that locate staff, contractors, suppliers or other business partners, as well as those locating manned and non-manned assets such as trucks and plant equipment. These services are typically configured in a way that allows mobile phone or a mobile device in a vehicle to send its location to the mobile device or personal computer of the corporate customer (the locator), either at regular intervals or at the request of the locator.

3.1.3 Good practice principles for providers of LBS for businesses
LSPs providing LBS for businesses should abide by the overarching principles outlined in Section 1.4. The following Annexes also apply: Annex E - Pro Forma Signed Consent Letter.

In addition, the following should apply.

Consent, privacy and protection
In recognition of the fact that the LSP will be providing its services to a business, and will therefore have a direct relationship with that business and little direct contact with any individual user of the LBS, it is important to ensure that the obligation to protect individual end-users is appropriately maintained.

LSPs offering LBS for business should therefore:

a. Verify the business customer is a bona fide organisation; and
b. Clearly outline the business customer’s responsibility for ensuring the service is legally and ethically used.

3.1.3.1 Verifying business customers as bona fide
LSPs should, before service commencement, verify that their business customer is a bona fide organisation.
LSPs should verify the name and address of the business customer that has registered to locate mobile devices used within or in association with the organisation.

LSPs may use a number of mechanisms to verify business details, including:

- Company registration (e.g., ABN, ACN), including registered address and proof that an organisation is trading;
- Banking or credit validation using reputable agency; or
- Verification of the identity and address of Directors or other responsible individuals.

LSPs should maintain appropriate records and compliance processes, including as outlined in Section 2, ‘Risk Management’.

3.1.3.2 Outlining business customers’ responsibilities
LSPs must make it clear that it is their business customers’ responsibility to use the service within the law, including all relevant privacy and data protection legislation, and to follow the principles outlined within this document.

In addition to ensuring that the general principles outlined under Section 1 are addressed, LSPs should ensure the business customer is aware of its responsibility to manage consent and safety-related issues, including:

- **Information to employees**: distributing information to their employees or associates about the service and how it operates;
- **Data processing**: Ensuring the processing of location data complies with relevant privacy and data protection requirements; and
- **Consent**: The LSP must locate people only during work hours or hours that the locatee has specifically agreed to be located for that location-based service.

It is the responsibility of both the organisation and employee to cease the service when the circumstances of the employee change (termination of employment, changing role within the organisation, etc). The organisation should also advise the employee of the process to de-register for the service when their employment situation changes.

- **Misuse**: The LSP’s terms and conditions must lay down the consequences of misuse by its customer. These may include service suspension and, in cases of persistent misuse, service withdrawal.

The above principles may be achieved through direct contract with the business customer and/or in contractual T&Cs, as appropriate. An example pro forma contractual letter to be used by LSPs to ensure their business customers are aware of and accept their responsibilities, is provided at Annex E.
3.2 Mobile location-based advertising

3.2.1 What this section covers
This section of the Guidelines lays out the additional principles of good practice that should be followed by those providing services that deliver passive location-based marketing messages to mobile users.

3.2.2 Examples of LBS services covered
Companies may want to use location-based services for marketing campaigns and competitions whereby the marketing message is sent based on the location of the recipient at a given time. Such campaigns may utilise ‘active’ or ‘passive’ LBS.

As already noted, this Guideline does not cover ‘active’ LBS services as these are not considered to pose any risk to consumer safety or privacy. However, ‘passive’ location-based advertising should comply with these Guidelines to ensure it is designed in such a way as to mitigate the risk of misuse.

If there is any doubt about whether an advertisement is ‘active’ or ‘passive’, LSPs should undertake a risk assessment to identify any possible avenues for misuse and address them appropriately.

Two examples of ‘passive’ uses are provided below:

Example 1

Competition advertised on wrappers/labels/posters etc. User sends a text to enter the competition and by so doing consents that their location may be used at some defined point in the future as part of the competition.

Example 2

Promotion will encourage users to sign up to a specific campaign where, over the period of the promotion, their location may be requested several times, and they will be advised of special offers, etc, near to where they are. They may also be encouraged to be in specific locations at certain times.

3.2.3 Good practice principles for providers of location-based marketing
LSPs offering passive location-based marketing services should abide by the principles outlined in Section 1.4. The following Annexes also apply: Annex A – Obtaining Consent, Annex C – Stopping, Suspending Service, Annex D – Marketing to Minors/Children and Restricted Access to content, including games.

In addition, the following should apply.

3.2.3.1 Consent
Passive location-based mobile marketing must only be sent to people who have agreed to receive this type of marketing. LSPs must clearly explain to customers when asking them to opt in to receive location-based mobile marketing messages:
For the use of mobile technology to provide passive location services in Australia

- that in order to send them such marketing it will be necessary to identify the location of their mobile device and therefore their personal location; and
- what and how their location details will be used.

Further mechanisms for obtaining consent are outlined in Annex A.

### 3.2.3.2 Marketing

LSPs should ensure that all location-based marketing communication complies with any applicable regulation as well as any relevant advertising guidelines.

Refer to Annex D.

### 3.3 Friend location-based services

#### 3.3.1 What this section covers

This section of the Guidelines lays out the additional principles of good practice that should be followed by those providing services for the purpose of locating friends – that is, users who already have each others’ identity details independent of any introduction by the LSP.

#### 3.3.2 Good practice principles for providers of friend location-based services

LSPs offering friend location-based services should abide by the principles outlined in Section 1.4. The following Annexes are also relevant: Annex A – Obtaining Consent, Annex B – Random Alerts for Friend Location-based Services, Annex C – Stopping, Suspending Service.

In addition, the following should apply.

#### 3.3.2.1 Privacy and control

LSPs offering friend location-based services should ensure that services are configured in a way that ensures an appropriate degree of locatee control and privacy to satisfy the LSP’s risk management analysis (see Section 2). This may include providing locatees with the option of choosing whether they are “visible” or “invisible” to locators and/or some services only being available on a reciprocal basis.

It must also include mechanisms to ensure that the consumer is in no doubt that the service is activated. Two possible ways to address this are:

**Random alerts:** Subsequent to activation, the LSP sends periodic alerts to all locatees to remind them that their mobile phone can be located by other parties and to provide them with sufficient information to manage who can locate them and allow them to stop the service if they wish to do so. See Annex B.

**Visual reminder:** The service design is such that there is a clear visual reminder that the service is on, leaving the locatee in no doubt that the service is enabled and that others can see their location.
3.3.2.2 Consent and age verification

Friend location-based services as defined above – where users seek each other out independently of any introduction by the LSP – are not subject to age limitations.

3.3.2.3 Marketing

In order to guard against unwarranted claims being made in the promotion of these services, marketing collateral associated with the product should use language that makes clear the functionality of the application or service. For example, the following statement may be useful:

*Location-based services are designed to locate the mobile device of another person. For the service to work, the mobile device has to be switched on and within network coverage. Location-based services are intended to complement, not be a substitute for, normal guardian or carer supervision. They give information about the location of the locatee’s mobile device and, in conjunction with other types of communication, such as phoning or texting, can help guardians or carers keep in touch with their charges.*

For media advertisements, the following shortened version may be appropriate:

*Location-based services are intended to complement not substitute guardian or carer supervision. For a mobile device to be located, it must be switched on and in network coverage.*

3.4 Anonymous chat and dating location-based services

3.4.1 What this section covers

This section of the Guidelines lays out the additional principles of good practice that should be followed by those providing passive location-based services to individuals who are not already known to each other.

3.4.2 Examples of LBS services covered

This Section covers location-based services supplied to adults for the purpose of locating other adults where the individuals are assumed to not already known to each other. This includes introduction and dating services. Services are configured in a way that allows the mobile devices of the approved participating individuals to locate each other on a reciprocal basis (subject to Section 3.4.3 (b) below).

3.4.3 Good practice principles for providers of chat and dating location-based services

LSPs offering anonymous chat and dating location-based services should abide by the principles outlined in Section 1.4. The following Annexes are also relevant: Annex A – Obtaining Consent, Annex C – Stopping, Suspending Service, Annex D – Marketing to Minors/Children and Restricted Access to content, including games.

In addition, LSPs offering anonymous chat and dating location-based services should:

a. ensure that appropriate age verification procedures are in place; and

b. ensure there is no presumption of the ongoing reciprocity of consent (ie, that an initial or subsequent consent to be located does not mean that the parties can locate each other on a continuing basis but require a fresh consent for each LBS session).
3.4.3.1 Age verification
Anonymous chat and introduction or dating location-based services should only be made available to persons for whom the LSP – or serving Mobile Network Operator (MNO) – has authenticated identity and verified their age as being over 18.

Age verification can be obtained by:

- A valid credit card in the name of the customer; or
- Evidence of some other form of identification by which the age of the customer can reasonably be determined to be 18 year of age or older; or
- Working with existing MNO Age Verification Systems (AVS).

LSPs must abide by the rules for restricting access to age restricted content as set out in the Restricted Access System Declaration 2007. Refer to Annex D.

3.4.4 Consent
Conditions for consent as outlined in Annex A apply. However, where an individual has given consent to be located in advance of any request from a locator, some of whom may not have been previously known to him or her, there must be no presumption of the ongoing reciprocity of the consent. Location information, where provided, should only be available for the duration of the time controlled by the locatee. The usual terms and conditions for opting in and out of the service apply.

3.4.5 Random Alerts
Random alerts are not required for anonymous chat and dating LBS as consent is session-based and not ongoing.

3.5 Mobile Games (and similar services)

3.5.1 What this section covers
This section of the Guidelines lays out the additional principles of good practice that should be followed by those providing services that supply mobile games with passive LBS capability.

These guidelines specifically relate to games for under 18s.

3.5.2 Examples of LBS services covered
This service is provided to individuals wishing to be involved in mobile games (and similar services) either as individual or as part of a common game with multiple players.

3.5.3 Good practice principles for providers of mobile games (and similar services)
LSPs offering mobile games and similar services should abide by the principles outlined in Section 1.4. The following Annexes also apply: Annex A – Obtaining Consent, Annex C – Stopping,
SUSPENDING SERVICE, ANNEX D – MARKETING TO MINORS/CHILDREN AND RESTRICTED ACCESS TO CONTENT, INCLUDING GAMES.

In addition, the following should apply.

3.5.4 AGE APPROPRIATE GAMING

LSPs offering mobile games and similar services must implement additional safety measures to minimise the potential for the misuse of their service.

Games designed for under 18s must not:

- encourage or facilitate physical interaction between players;
- encourage players to act in a way that would easily identify them as gaming participants (e.g., wear nominated clothing).

Games that include any features that:

- could lead to strangers being readily identifiable as gaming participants; and/or
- could facilitate the introduction of strangers;
- must only be available to customers aged 18 years or over.

Where the LSP has not verified that all players in the game are either 18 or over, the games provider must adhere to the rules for under 18s.

3.5.4.1 GAMES FOR UNDER 18S

In addition to adhering to the general principles for games for under 18s outlined above, LSPs should:

- Not reveal any player’s true identity or MSISDN to any other players. Players must be identified to each other by aliases only;
- Not reveal true physical location information about any player to any other player. True physical location information that would reveal the whereabouts of players may only be collected for the purposes of the game. Games must therefore be based in a virtual world or location feeds mapped in such a way that they do not disclose the identity of players, actual location, or the actual distance away that one player is from another;
- Ensure that, where used, location information is only available for the duration of the game; and
- Not provide any linked chat facilities unless they are moderated and cannot be used to make actual contact. Such moderation may include the use of templates (i.e., as set of fixed phrases) predefined by the LSP and the use of manual or automated filtering to prevent the facility being used to share contact details (such as name or address).
Examples of features acceptable in games for under 18s:

- Single player games;
- Multi-player games, including games in which strangers are anonymously and remotely pitted against each other;
- The use of geographical location information as part of the game, provided the game is not designed to facilitate physical meeting; and
- Moderated chat between players.

3.5.4.2 Games for over 18s

The following rules apply for games for over 18s:

- Games for over 18s must only be provided to customers that the LSP has verified as being 18 or over. Age verification can be obtained by:
  - A valid credit card in the name of the customer; or
  - Evidence of some other form of identification by which the age of the customer can reasonably be determined to be 18 year of age or older; or
  - Working with existing MNO Age Verification Systems (AVS)².
- Where used, location information should only be available for the duration of the game.

LSPs must abide by the rules for restricting access to age restricted content as set out in the Mobile Premium Services Industry Code and Restricted Access System Declaration 2007. Refer to Annex D.

Examples of features acceptable in games for over 18s:

- Single player games;
- Multi-player, including games in which strangers are pitted against each other;
- The use of geographical location information as part of the game; and
- Moderated or un-moderated chat between players.

3.5.5 Marketing of games

LSPs should ensure that all location-based marketing communication complies with any applicable regulation as well as any relevant advertising guidelines.

Refer to Annex D.

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² A number of services already require Age Verification Systems to operate. Individual Mobile Network operators can provide further details of AVS systems that may already be in place.
4 Compliance with Laws

The LSP will ensure compliance with applicable Federal and State/Territory laws.

The collection and use of location data relating to individuals is subject to a range of legislation. At a Federal level this includes the Telecommunications Act 1997 (Cth), the Telecommunications (Interception and Access) Act 1979 (Cth), and the Privacy Act 1988 (Cth). There are also various pieces of State/Territory legislation that regulate the collection and use of such data. Examples of such legislation include the Workplace Surveillance Act 2005 (NSW), and the Surveillance Devices Act 1999 (Vic) and the Spam Act (2003).

Although these guidelines are intended to build on the highest benchmarks set by the relevant Federal, State/Territory legislation, they do not constitute legal advice and should not be treated as such. These guidelines also do not form a comprehensive outline of all legal issues relevant to the provision of location-based services in Australia. It is imperative that each individual company obtain independent legal advice to ensure that its services comply with all current legal requirements.
5 ANNEXES

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A. Annex A – Obtaining Consent

General

All passive location-based services must be consent based. LSPs must obtain consent to being located from all locatees before any location-based service is activated\(^3\).

If consent is refused, the service must not be activated.

All services are provided on an opt-in basis and it is entirely up to each customer to decide whether to opt in to any service. The availability of these services in no way obliges the customer to consent to using any or all of them.

There must be clear evidence of the end-user consenting to their location information being disclosed to a third party. This applies to each and every LBS service separately. That is, the end-user must consent and opt in to each LBS service individually. Consent by the end-user to being located by user X for gaming does not allow user X to locate the end-user for any other service.

Information to be sent to locatee before service activation

Before being asked to provide consent, a locatee must:

- be informed that someone wishes to locate their mobile device
- be provided with the appropriate information to enable them to identify prospective locators and be able to maintain control of their location information.

For example, they might be provided with:

- the identifier (eg username, phone number or other unique identifier) of prospective locator. Or, in the case of an anonymous/dating service, only the number/unique identifier.
- the service name and location-based service provider name.

An example of how this information might be presented to the locatee in an SMS\(^4\) when a locator first requests the ability to locate them is presented below.

FREE MSG [NAME] [PHONE NUMBER] wants to locate your mobile from now on. Text [SERVICE NAME] YES [NAME] + [activation code] to [SERVICE NUMBER] to agree. [SERVICE WEBSITE] by [PROVIDER NAME].

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\(^3\) NOTE: Where LSPs provide LBS to businesses and are not in a position to ensure the individual consent of each end-user, these obligations will apply to the relationship between the LSP and their business customer. However, LSPs must appropriately discharge their responsibility to the individual end-users by contractually obliging their business customer to appropriately manage the relevant consent obligations, as outlined in section 3.1.

\(^4\) Short Messaging Service – commonly known as SMS or ‘text’
Consent verification

The LSP must take reasonable steps to ensure the consent is obtained from the locatee. For example, consent could be confirmed by the return of an activation code known only to the locatee or by some other mechanism that can be demonstrated to be equally secure.

Customer safety advice at service commencement

Customers must be provided with clear safety advice at service commencement.

The minimum requirements of this notification are:

1. Service/application name

2. Appropriate and unambiguous advice to users about the service. For example, for “friends’ LBS services”, appropriate and unambiguous advice to locatees would include advice that users should consent to the operation of the service only where they know the prospective locator.

3. Contact point for help / issues/ further information

4. How to stop the service (See annex C for standard procedures and text for stop commands)

An example of this as an SMS message:

FREE MSG [SERVICE NAME] ALLOWS OTHER PEOPLE TO KNOW WHERE YOU ARE. FOR YOUR OWN SAFETY MAKE SURE THAT YOU KNOW WHO IS LOCATING YOU.

The request for consent should refer to a web site or other materials where detailed information can be obtained about the nature of the service, safety advice and the rights of the locatee.
B. Annex B – Random Alerts for Friend Location-based Services

LSPs should ensure that services are configured in a way that ensures an appropriate degree of locatee control and privacy to satisfy the LSP’s risk management analysis (see Section 2). This must include mechanisms to ensure that the consumer is in no doubt that the service is activated.

This Annex outlines how that could be achieved using random alerts.

Subsequent to activation, the LSP should send periodic alerts to all locatees to remind them that their mobile device can be located by other parties.

Alert schedule

Alerts should be sent at random intervals, not in a set pattern. Alerts should only be sent between the hours of 9am and 9pm.

The following minimum standard for the frequency of notifications must be maintained:

<table>
<thead>
<tr>
<th>Period</th>
<th>Notification*</th>
</tr>
</thead>
<tbody>
<tr>
<td>After 2 hours but within first 24 hours of first consent being given</td>
<td>At least 1</td>
</tr>
<tr>
<td>48 hours to 2 weeks</td>
<td>At least 1</td>
</tr>
<tr>
<td>Every subsequent month</td>
<td>At least 1</td>
</tr>
</tbody>
</table>

* may be an SMS, email, pop-up or similar

Even if no location requests have been made in relation to a locatee since the previous notification was sent, subsequent notifications should be sent in accordance with the above periods.

If the notification is not delivered, for whatever reason, it should be re-sent until it is delivered.

Required information

Random notifications to locatees should contain the following information:

- the service name;
- sufficient information to allow the individual to manage who can locate them and allow them to stop the service if they wish to do so; and
- website details or customer support number where further service information is available, including terms and conditions of service.
As an example the following text may be sent to the locatee to remind them that a location-based service is still active:

FREE MSG [You have consented to your phone being located through] [SERVICE NAME]. To stop this service please send STOP [SERVICE NAME] [NAME] to [SERVICE NUMBER]. [service website] by [PROVIDER NAME].

Opting out of random alerts

On request, users can opt out of receiving ongoing alert notifications after an initial period\(^5\) of at least 6 months. However:

1. The initial consent notification should still be sent every time a new friend is added; and

2. Random alerts should be sent to the locatee in accordance with this schedule when consent is given for each and every service. That is, the request to opt out of the alert notification regime for one service cannot be taken as a request to opt out of notifications for any other service. The consumer must actively opt out for each service they choose to subscribe to.

\(^5\) This applies only to LBS-specific notifications; it does not remove the obligation for service providers to send any notifications as required under other relevant Codes or regulation, such as the MPS Code.
C. Annex C - Stopping, suspending service

LSPs must establish procedures to enable locators and locatees to opt out of the services; must action requests within defined timeframes (usually upon receipt); and must ensure that, where applicable, unsubscribe fees and other conditions are strictly in accordance with the rules as set out in the Mobile Premium Services Industry Code\(^6\) and related Guidelines.

For premium rate services delivered via a mobile handset, "STOP" must be used as the command to stop a service either temporarily or permanently.

As an example, the following text may be sent by the locatee as an SMS when de-activating a service which allows an individual to locate another individual:

"STOP [SERVICE NAME] [NAME]" to [SERVICE NUMBER]

When de-activating all locators on a location-based service operated by a LSP:

"STOP [SERVICE NAME] ALL" to [SERVICE NUMBER]

Where appropriate, LSPs should ensure that either:

a. advisory messages are sent to the locator when a de-activation request is made by the locatee; or

b. location status is available to locators to reflect a stopped or suspended service.

D. Annex D- Marketing to Minors/Children and Restricted Access to content, including games

LSPs must have regard to the advertising guidelines set out in the guideline to the Communications Alliance Mobile Premium Services Code\(^7\), the Telecommunications Consumer Protections Industry Code C628:2007\(^8\), the Australian Direct Marketing Association’s (ADMA) M-Marketing Code of Practice\(^9\) and the Australian Association of National Advertisers’ Code for advertising to minors/Children\(^10\) as well as any relevant regulation.

LSPs should also abide by the rules for restricting access to age restricted content in accordance with the regulation of content framework under Schedule 7 to the *Broadcasting Services Act 1992*, as specified in the *Restricted Access System Declaration 2007\(^11\)*. This includes rules restricting access to MA15+ for mobile games. LSPs should also have regard to the IIA Content Services Code of Practice\(^12\).


\(^9\) This Code requires express consent from individuals before sending marketing messages, along with guidelines for marketing to children. See: [http://www.adma.com.au/data/portal/00000947/content/82100001056418742953.pdf](http://www.adma.com.au/data/portal/00000947/content/82100001056418742953.pdf)


\(^12\)[http://www.iia.net.au/images/content_services_code_registration_version_1_0.pdf](http://www.iia.net.au/images/content_services_code_registration_version_1_0.pdf)
E. Annex E - Pro Forma Signed Consent Letter

Following is an example of a pro forma contractual letter to be used by LSPs to ensure that their business customer is aware of — and accepts — their responsibility to manage consent and safety-related issues.

Letter from LSP to business contact

[Date]

To: [Business Customer Contact]
[Customer Name]
[Business Customer Address]
Australia

Dear [Business Customer Contact]

[Customer] is party to an agreement with [LSP] pursuant to which [Customer] will acquire and use LSP’s product for the purpose of locating designated mobile devices.

You confirm that each person located by the LSP’s product will have consented to being located by [Customer] during their working hours. [Customer] warrants that each person located will be informed of the privacy management tools available to them prior to the location-based service being activated for that user.

Without limiting any other agreement you warrant that you and your officers, directors, employees, agents and independent contractors will:

- comply with all applicable laws and regulations including, without limitation, the Privacy Act 1988 (Cth) and any applicable workplace surveillance laws;
- not use the LSP’s Product in a negligent, unlawful or illegal manner;
- not use the LSP’s Product to undertake any covert or unauthorised surveillance;
- not use the LSP’s Product to locate a Mobile Device that is in an employee’s possession or control outside that employee’s hours of work;
- take all reasonable measures to train employees how to use the tools available in the LSP’s Product to further manage access, including, if available, configuring company working hours and any further controls over when an employee is able to be located;
- ensure that any device subject to the location service will remain within the control of [Customer] and will not be provided to another person, nor caused to be within the possession of another person, without that person’s knowledge or against their will.

Yours sincerely

[Name]
[Title]
[Company]
F. Annex F - Working Group Participants

The working group compiling the Code of Practice has comprised of representatives from:

Australian Mobile Telecommunications Association (AMTA)

Nokia

Optus

Telstra

Vodafone Hutchison Australia

The Internet Industry Association (IIA) has also indicated its support for AMTA’s work in this area.
G. Annex F – Glossary

**Active location-based service** - a service where a user locates the position of their own mobile device.

**AMTA** - Australian Mobile Telecommunications Association

**Associates** - An individual that is contracted to work for a corporate customer, such as an agency temp or sub-contractor

**AVS** – Age Verification System

**GPS** - Global Positioning System. A satellite navigation system used to determine the device’s geographic location

**LBS** - Location-based service: any information, entertainment or social media service/application available on a mobile device that makes use of the device’s geographic position. Location-based services can be active or passive

**Locatee** - The person being located in a passive location-based service

**Locator** - The person initiating a location request in a passive location-based service

**LSP** - Location service provider: A value added service provider who offers a service using location information provided by a mobile phone network or user’s device

**MNO** - Mobile network operator

**MSISDN** - MSISDN means the Mobile Subscriber Integrated Services Digital Network Number which is the mobile telephone number associated with the service.

**Passive location-based services** - services that enable a user to be located by a third party

**SMS** – Short Messaging Service. Also commonly known as a ‘text’

**T&Cs** – Terms and Conditions

**WAP/WML** - Wireless Application Protocol and Wireless Markup Language; the protocol used by mobile phones to browse content sites (including those on the Internet)

**Working group** - The group of Australian Mobile Telecommunications Association members responsible for writing these Guidelines