

Investigation Report

File No.	ACMA2018/409-32
Carriage Service Providers	AAPT Limited ACN 052 082 416 PowerTel Limited ACN 052 082 416
Type of Services	Carriage Service Providers
Relevant Legislation/Code	- <i>Telecommunications Act 1997</i> - <i>Industry Code (C555:2017) Integrated Public Number Database (IPND)</i>
Date	20 December 2018

Findings

The Australian Communications and Media Authority (the **ACMA**) finds that on multiple occasions AAPT Limited ACN 052 082 416 (**AAPT**) and PowerTel Limited ACN 052 082 416 (**PowerTel**):

- > contravened subsection 101(1) of the *Telecommunications Act 1997* (the **Act**), which requires a carriage service provider (**CSP**) to comply with the service provider rules that apply to it, by failing to give Telstra Corporation Limited (**Telstra**, or the **IPND Manager**) the information it reasonably required to provide and maintain the Integrated Public Number Database (**IPND**), thereby contravening the service provider rule in clause 10 of Schedule 2 to the Act;
- > contravened the following clauses of the *Industry Code (C555:2017) Integrated Public Number Database (IPND)* (the **IPND Code**):
 - 4.2.1 – because AAPT and PowerTel, being CSPs that provides carriage services to customers using public numbers¹, failed to provide the relevant public number customer data² to the IPND Manager in respect of certain carriage services they supply;
 - 4.2.11 – because AAPT and PowerTel failed to ensure that the public number customer data they provided to the IPND Manager was accurate, complete and up to date; and
 - 4.2.25 – because AAPT and PowerTel failed to supply to the IPND Manager public number customer data updates that occurred on one business day, by the end of the next business day.

¹ In this report, *number* and *public number* mean a number under the *Telecommunications Numbering Plan 2015*.

² As defined in the IPND Code, where it is also referred to as 'PNCD'.

Background

1. This report details findings of an investigation conducted by the ACMA under paragraphs 510(1)(a) and (c) of the Act into whether AAPT and PowerTel contravened the Act and/or an industry code registered under Part 6 of the Act.
2. The investigation commenced on 16 July 2018. On 18 July 2018, the ACMA issued a notice under section 521 of the Act to each of AAPT and PowerTel, requiring the production of documents and information (the **Notices**).
3. AAPT and PowerTel are both wholly owned subsidiaries of TPG Telecom Limited (**TPG**).
4. AAPT provided a combined response to the Notices on 23 August 2018 on behalf of AAPT and PowerTel. AAPT stated that the IPND processes and systems for AAPT and PowerTel have been combined into one common system since 2007. Given that AAPT claims that it is not always possible to distinguish between the two entities, references below to data provided by, or relating to, AAPT refer to data relating to both AAPT and PowerTel.
5. On 24 October 2018, the ACMA issued preliminary findings to AAPT and PowerTel. AAPT responded on 20 November 2018.

Relevant facts

6. AAPT and PowerTel are CSPs within the meaning of the Act. AAPT and PowerTel supply telecommunications services to business, government and residential customers. They also supply telecommunications services on a wholesale basis to other retail CSPs.
7. AAPT is a 'Data Provider' within the meaning of clause 2.2 of the IPND Code.³ PowerTel is also a Data Provider, although it appears, based on information provided by AAPT, that AAPT in fact provides data to the IPND on behalf of PowerTel.

The IPND and its legislative framework

8. The IPND is intended to be an industry-wide database of all public telephone numbers. It was established in 1998 and is managed by Telstra as required by section 10 of the *Carrier Licence Conditions (Telstra Corporation Limited) Declaration 1997 (Telstra Licence Conditions)*. The maintenance of the IPND by the IPND Manager is supported by, among other things:
 - a. a service provider rule requiring a CSP that supplies a carriage service to an end-user, and where that user has a public number, to give Telstra such information as Telstra reasonably requires in connection with Telstra's fulfilment of its obligation to provide and maintain the IPND⁴; and
 - b. the IPND Code, which is an industry code registered by the ACMA under Part 6 of the Act, and which sets out procedures relating to the storage of information in the IPND and the transfer of information to and from the IPND Manager.

³ 'Data Provider' is defined to mean a CSP who has an obligation to provide PNCD to the IPND Manager, or an entity acting on behalf of the CSP, and who is registered with the IPND Manager.

⁴ Subsection 101(1) of the Act requires CSPs to comply with the service provider rules, and paragraph 98(1)(a) of the Act provides that the service provider rules include the rules set out in Schedule 2 to the Act. Clause 10 of Schedule 2 to the Act deals with the information that CSPs must give to Telstra in association with its IPND Manager responsibilities.

9. The IPND Code, and the associated IPND Data Guideline (G619:2017), also refer to the *Integrated Public Number Database (IPND) Data Users and Data Providers Technical Requirements for IPND* (the **Technical Requirements**). The Technical Requirements, which are issued by Telstra and made with the agreement of a majority of relevant Data Users⁵ and Data Providers (see clause 7.1.8 of the IPND Code), set out the detailed operational and technical requirements for the submission of information by Data Providers to the IPND Manager.
10. The information in an IPND record includes customer name and address, phone number, the type of service, whether the service is listed or unlisted and details about the service provider. The Technical Requirements (at clause 6.1.2) specify the information that is included, or which can be included, in an IPND entry. An IPND record includes a mandatory field, called the 'Service Status Code', which is used to indicate whether a service is connected or disconnected.
11. Under Part 13 of the Act and the Telstra Licence Conditions, the information in the IPND can only be used for specific purposes. Critical users of the IPND include the emergency call service, the emergency warning system, and national security and law enforcement agencies. These bodies use IPND information to protect life and property and to investigate serious crime. Failure to provide accurate, timely and current information to critical users can have serious consequences. For example, failure to provide location information associated with a call to the Triple Zero emergency call service could place a caller's life at risk. Non-critical users of IPND data include publishers of public number directories and researchers conducting permitted research.
12. There are several ways in which a Data Provider can identify potential errors occurring when uploading data to the IPND, and any discrepancies between its own customer data and that stored in the IPND, including:
 - > by reference to clause 4.2.28 of the IPND Code, allows a Data Provider, at its discretion, to obtain an extract of its public number customer data as a full set of records or a subset of records based on criteria agreed between the Data Provider and the IPND Manager for reconciliation purposes.
 - > by reference to clauses 6.1.6 and 6.1.7 of the IPND Code require a Data Provider to download the information the IPND Manager produces about 'hard' and 'soft' errors⁶, and take reasonable steps to resolve the matter and supply the corrected public number customer data to the IPND Manager within one business day for hard errors and two business days for soft errors.
 - > Additionally, the IPND Manager sends reminders via email (at least twice a year) to the approved contact(s) of all Data Providers about the importance of checking the corresponding error file after each IPND upload to ensure the file has been processed successfully.

⁵ As defined in clause 2.2 of the IPND Code.

⁶ 'Hard' and 'soft' errors are identified during the IPND's validation process when a Data Provider attempts to upload a file of IPND records (a file may contain one or more records). A hard error, such as mandatory field in the IPND record being blank, prevents the upload of the file and/or the record containing the hard error to the IPND. A soft error is a possible error in an individual field of the record. In this case, the file is still uploaded to the IPND but is tagged as having a 'soft' error. A soft error can signify potential name and/or address inaccuracies, or missing information within an IPND record. The IPND Manager makes reports about hard and soft errors available to Data Providers.

- > by reference to clause 6.1.10 encourages Data Providers to check a monthly Changed Data Provider report produced by the IPND Manager, which informs the Data Provider of all numbers gained and lost in the last month.

AAPT's response to the Notice

13. AAPT compared its customer database (i.e. including PowerTel customers) against its records in the IPND (in responding to the Notices) which revealed that:
 - a. **70,250** public numbers associated with an AAPT 'active' service do not have a corresponding record in the IPND;
 - b. **1,195,575** public numbers associated with an AAPT service have an incorrect Service Status Code in the corresponding IPND record (inaccurate records), comprised of:
 - i. 99,647 public numbers associated with an AAPT 'active' service which have a 'disconnected' status in the corresponding IPND record;
 - ii. 1,095,542 records associated with AAPT with a 'connected' status in the IPND which are shown as 'disconnected' in AAPT's customer database; and
 - iii. 386 records associated with AAPT with a 'connected' status in the IPND which are not present in AAPT's customer database.
14. AAPT identified a range of reasons why the errors occurred, including:
 - a. human error and oversight;
 - b. legacy processes and system issues or defects;
 - c. migrations of services from one internal system to another;
 - d. that 54 records missing from the IPND were uploaded to the IPND but were not included in the AAPT IPND Extract. AAPT stated it would raise the issue with the IPND Manager.
15. In relation to the records at subparagraph 14d, if AAPT records were uploaded to the IPND prior to the AAPT IPND Extract on 6 August 2018, AAPT may not have contravened the Act or IPND Code in respect of these services. However, when AAPT responded to the Notices, no evidence was provided to support AAPT's claims and the ACMA included these in the preliminary contraventions.

When it responded to the Notices, AAPT stated that it had excluded 1,060,957 active services (the Excluded Services) from its response. AAPT excluded these services due to a misunderstanding of its obligations in relation to these services. This matter was raised with AAPT by the ACMA, and AAPT revised the number of excluded services to 14,391 in its response to the ACMA's preliminary findings.

AAPT's Response to the Preliminary Findings

16. The ACMA's preliminary findings set out the view that AAPT and PowerTel had contravened the service provider rule and the IPND Code in relation to:
 - a. **70,513** active or previously services with no record in the IPND. This figure comprised 70,250 services identified by AAPT in response to the Notice, plus 133 services confirmed by AAPT as missing prior to the commencement of the investigation.

b. **1,195,575** IPND records for an AAPT service with an incorrect Service Status Code. This figure comprised the 1,195,575 numbers reported by AAPT in response to the Notice.

17. The ACMA's preliminary findings noted that the figures in paragraph 17 may be revised in any final findings once AAPT performed a reconciliation of the Excluded Services. AAPT undertook a limited reconciliation of the 14,391 Excluded Services, and from the information provided by AAPT, the ACMA concluded that an additional 1,729 public numbers associated with an AAPT service have, at a minimum, an inaccurate connection status.

18. From the information provided in AAPT's response to the Preliminary Findings and further analysis by the ACMA, the number of AAPT services with missing records was reduced to **37,728** (from 70,513). The number of AAPT services with inaccurate records was reduced to **260,977** (from 1,195,575). Detail about why the number of contraventions changed is provided in the table below.

Contravention type	Response to Notice	Response to preliminary findings	AAPT Explanation for corrected figure	ACMA Response	Final contravention total
Number of active numbers that do not have a corresponding record in the IPND	70,250	37,595	- Response to Notice incorrectly included numbers associated with wholesale services. - Changed Data Provider reports indicated certain numbers which AAPT sent to the IPND prior to the date its IPND data was incorrectly overwritten by another CSP.	- The IPND obligation for services which AAPT supplies to its wholesale customers attaches to AAPT's wholesale customer: that CSP has the relationship with the end-user and is therefore the CSP for the purposes of the service provider rule under the Act, not AAPT. - If another CSP has 'overwritten' AAPT's IPND records, these records would appear in AAPT's customer systems but not in an extract of its IPND records, because they would be attributed in the IPND to the CSP which 'overwrote' record. The ACMA has accordingly excluded these records from the contraventions total.	37,728 (being the 37,595 identified by AAPT in response to the Preliminary Findings, plus 133 services confirmed by AAPT as missing prior to the start of this investigation)
Numbers which have an incorrect service status code in the IPND	1,195,575	259,248 (plus 1,729 Excluded Services numbers)	- Response to Notice incorrectly included records which appeared more than once in IPND. - Further analysis confirmed that the connection status in the IPND (initially thought to be incorrect) was in fact correct. - Response to Notice incorrectly included numbers associated with Wholesale Services	- It is reasonable not to double count contraventions. If the IPND record reflects the correct connection status of the service, it is not a contravention. - As above for wholesale services.	260,977 (being the 259,248 identified by AAPT in response to the Preliminary Findings, plus 1,729 Excluded Services numbers)

19. AAPT has advised that it would take the following additional steps to prevent future errors occurring:

- > AAPT will establish a new process to monitor and review the monthly Changed Data Provider reports on a monthly basis to ensure that any numbers incorrectly overwritten in IPND are identified and corrected. Similarly, if a number was

incorrectly gained by AAPT, AAPT will inform the losing CSP so that it can correct the record in the IPND.

- > AAPT will update its IPND process to ensure complete comparisons of IPND data against the data in AAPT's customer systems (including legacy services and Telstra rebill services) are undertaken every six months.
- > AAPT aims to have these new processes implemented by 1 March 2019.

Findings and reasons

Compliance with the Act

20. Subsection 101(1) of the Act requires that service providers, including CSPs, comply with the service provider rules that apply to them. Subsection 98(1) of the Act provides that the service provider rules include those set out in Schedule 2 to the Act.
21. Clause 1 of Schedule 2 to the Act provides that service providers must comply with the Act. Clause 10 of Schedule 2 requires that where a CSP supplies a carriage service to an end-user, and the end-user has a public number, the CSP must give Telstra (as the IPND Manager) such information as Telstra reasonably requires to fulfil its obligation to provide and maintain an IPND.

Clause 10 of Schedule 2

22. In determining what information the IPND Manager reasonably requires in order to fulfil its obligation to provide and maintain an IPND, the ACMA has regard to the Act, the Telstra Licence Conditions, the IPND Code and the Technical Requirements.
23. Subclause 10(4) of the Telstra Licence Conditions requires that the IPND must include, among other things, the public number, and the name and address of the customer. It is clearly reasonable for Telstra to require that information which the Telstra Licence Conditions require it to obtain, and which are obviously essential to the maintenance of the IPND.
24. Further, the IPND Manager may reasonably require other information that will assist in delivering the objectives of the IPND. Having regard to the critical functions described in paragraph 11 above, the ACMA considers that the service status of a number (that is, 'connected' or 'disconnected') is important to the proper functioning of the IPND, given that an incorrect status could adversely impact Data Users' services (noting that researchers and public number directory publishers only receive connected records). It could also cause severe detriment in some cases (if, for example, a service did not receive an emergency warning because it was listed as 'disconnected').
25. The IPND Manager, has explicitly sought the service status information from Data Providers in respect of each IPND entry, via the Technical Requirements. As noted above, the Service Status Code is a mandatory IPND field (others are optional), and the Technical Requirements have been made in consultation with, and with the agreement of, Data Providers. Further, clause 4.2.10 of the IPND Code provides that Data Providers must ensure that all public number customer data transferred to the IPND Manager is in the format specified in the Technical Requirements; and clause 4.2.11 provides that the Data Provider must ensure that the information provided to the IPND Manager is accurate, complete, and up-to-date.

26. Considering the above, the ACMA is satisfied that the IPND Manager reasonably requires CSPs to provide correct information about whether a telephone number is connected or disconnected to fulfil its obligations as IPND Manager. By uploading information that incorrectly identified connected telephone numbers as 'disconnected', and disconnected telephone numbers as 'connected', AAPT did not give the IPND Manager the information it reasonably required to fulfil its obligation to maintain the IPND.
27. Based on information provided by AAPT, it did not upload public number customer data to the IPND for 37,728 public numbers, and AAPT customer data for 260,977 other public numbers had an incorrect connection status⁷.
28. AAPT has advised that the errors have occurred due to human error, legacy processes or systems issues and defects. This does not excuse or detract from AAPT's responsibility to ensure that it gives the IPND Manager the information it reasonably required to fulfil its obligation to maintain the IPND.
29. The ACMA therefore finds that AAPT contravened clause 10 of Schedule 2 to the Act.
30. For essentially the same reasons, the ACMA finds that PowerTel contravened clause 10 of Schedule 2 to the Act. PowerTel is a CSP, which is therefore subject to that provision of the Act, even if it relies on AAPT systems and processes to meet that obligation. Although it is not, according to AAPT, possible to distinguish between data relating to AAPT or PowerTel, the ACMA considers that the joint response is evidence of contraventions by both entities, even if it may be inferred that PowerTel is responsible for a significantly smaller proportion of those alleged contraventions.
31. Accordingly, the ACMA finds that AAPT and PowerTel contravened subsection 101(1) of the Act as they failed to comply with the service provider rule in clause 10 of Schedule 2 to the Act.

Compliance with the IPND Code

32. The IPND Code is an industry code registered under Part 6 of the Act⁸ which applies to CSPs (among others).⁹

Clause 4.2.1

33. Section 4.2 of the IPND Code sets out rules in relation to the provision of data to the IPND Manager. As noted above, clause 4.2.1 of the IPND Code obliges a CSP to supply relevant public number customer data (also referred to as PNCD) to the IPND Manager for each public number it uses to supply a carriage service. AAPT and PowerTel are CSPs within the meaning of the IPND Code.
34. Public number customer data includes, among other things, the public number, and the name and address of the customer, as referenced in the Telstra Licence Conditions and the definition in clause 2.2 of the IPND Code.

⁷ This investigation has not considered whether other fields in the relevant IPND records contain inaccuracies.

⁸ The IPND Code is registered under section 117 of the Act.

⁹ See cl. 1.3.1(b) of the IPND Code.

35. Based on information provided by AAPT, it did not upload public number customer data to the IPND for 37,728 public numbers associated with active, or previously active, AAPT or PowerTel services.
36. The ACMA therefore finds that AAPT and PowerTel contravened clause 4.2.1 of the IPND Code.

Clause 4.2.11

37. Clause 4.2.11 of the IPND Code requires a CSP to ensure that the public number customer data provided to the IPND Manager is accurate, complete and up to date.
38. Based on information provided by AAPT, it did not upload public number customer data to the IPND for 37,728 public numbers, and 260,977 other public numbers had an incorrect Service Status Code.
39. The ACMA therefore finds that AAPT and PowerTel contravened clause 4.2.11 of the IPND Code as they failed to ensure that the information provided to the IPND Manager in those instances was accurate, complete and up-to-date.

Clause 4.2.25

40. Clause 4.2.25 of the IPND Code requires a CSP to supply to the IPND Manager all public number customer data updates that occur on one business day, by the end of the next business day.
41. Public number customer data updates can include a change to the customer data for an existing number, or any new or ported numbers for which customer data has not previously been provided by the CSP.
42. Based on information provided by AAPT, no public number customer data for 37,728 public numbers was uploaded to the IPND by AAPT and there was incorrect information in the IPND for a further 260,977P public numbers. AAPT made no claim that these numbers were for services that were newly connected, ported or disconnected and that the time limit for uploading or updating IPND customer data had not expired. Consequently, updates for these services were not supplied to the IPND within the requisite timeframe.
43. The ACMA therefore finds that AAPT and PowerTel contravened clause 4.2.25 of the IPND Code by failing to supply public number customer data updates that occurred on one business day, by the end of the next business day.