

Investigation Report

File No.	ACMA2018/409-28
Carriage Service Providers	TransACT Communications Pty Limited ACN 091 752 297 TransACT Capital Communications Pty Ltd ACN 093 966 888
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, TransACT Communications Pty Limited ACN 091 752 297 (**TransACT**) and TransACT Capital Communications Pty Ltd ACN 093 966 888 (**TransACT Capital**):

- > 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 TransACT and TransAct Capital, being CSPs that provide carriage services to customers using a 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 TransACT and TransACT Capital 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 TransACT and TransAct Capital 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 TransACT and TransACT Capital 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 TransACT and TransACT Capital requiring the production of documents and information (the **Notices**).
3. TransACT and TransACT Capital are both wholly owned subsidiaries of iiNET Limited (**iiNet**). iiNet was acquired by TPG Telecom Limited (**TPG**) in September 2015.
4. TransACT provided a combined response to the Notice on 23 August 2018 on behalf of both TransACT and TransACT Capital. TransACT stated that both entities use common IPND systems and processes to upload IPND records. Given that TransACT claims that it is not always possible to distinguish between the two TransACT entities, references below to data provided by, or relating to, TransACT refer to data relating to both TransACT and TransACT Capital.
5. On 24 October 2018, the ACMA issued preliminary findings to TransACT and TransACT Capital. They responded on 21 November 2018.

Relevant facts

6. TransACT is a CSP within the meaning of the Act³. TransACT supplies telecommunications services to fixed-line and mobile consumer and business markets.
7. TransACT is a 'Data Provider' within the meaning of clause 2.2 of the IPND Code.⁴ TransACT Capital is also a CSP and a Data Provider.

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 IPND⁵; 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 See section 87 of the Act.

⁴ '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.

⁵ 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 Users⁶ 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, which allows a Data Provider 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, which require a Data Provider to download the information the IPND Manager produces about 'hard' and 'soft' errors⁷, 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.

⁶ As defined in clause 2.2 of the IPND Code.

⁷ '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 of the IPND Code, which 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.

TransACT's response to the Notice

13. TransACT compared its customer database to its records in the IPND (in responding to the Notices) which revealed that:
 - a. **8,609** public numbers associated with a TransACT 'active' service do not have a corresponding record in the IPND;
 - b. **24,350** public numbers associated with a TransACT service have an incorrect Service Status Code in the corresponding IPND record (inaccurate records), comprised of:
 - i. 2,518 public numbers associated with a TransACT 'active' service which have a 'disconnected' status in the corresponding IPND record;
 - ii. 17,327 records associated with TransACT with a 'connected' status in the IPND which are shown as 'disconnected' in TransACT's customer database; and
 - iii. 4,505 records associated with TransACT with a 'connected' status in the IPND which are not present in TransACT's customer database.
14. TransACT has identified a range of reasons why the errors occurred, including:
 - a. human error and oversight;
 - b. process and system issues or defects;
 - c. migrations of services from one system to another.

15. When TransACT responded to the Notice, it excluded 1,068 active services (the Excluded Services) from its response. TransACT excluded these services due to a misunderstanding of its obligations in relation to these services. This matter was raised with TransACT by the ACMA, and TransACT revised the number of excluded services to 379 in its response to the ACMA's preliminary findings.

TransACT's Response to the preliminary findings

16. The ACMA's preliminary findings set out the view that TransACT had contravened the service provider rule and the IPND Code in relation to:
 - a. **8,631** active services with no record in the IPND. This figure comprised the 8,609 numbers reported by TransACT in an updated response to the Notice, plus 20 numbers confirmed by TransACT as missing records prior to the commencement of the investigation;
 - b. **24,350** IPND records for a TransACT service with an incorrect Service Status Code. This figure comprised the 24,350 numbers reported by TransACT in response to the Notice.
17. The ACMA's preliminary findings noted that the figures in paragraph 16 may be revised in any final findings once TransACT performed a reconciliation of the Excluded Services. TransACT undertook a limited reconciliation of the 379 Excluded Services, and from the information provided by AAPT, the ACMA concluded that an additional 221 public

numbers associated with an AAPT service have, at a minimum, an inaccurate connection status.

18. From the information provided in TransACT’s response to the Preliminary Findings and further analysis by the ACMA, the number of TransACT services with missing records was reduced to **8,091** (from 8,631). The number of TransACT services with inaccurate records was reduced to **21,289** (from 24,350). Detail about why the number of contraventions changed is provided in the table below.

Contravention type	Response to Notice (including updates)	Response to preliminary findings (including updates)	TransACT explanation for corrected figure and ACMA response	ACMA response	Contravention totals
Number of active numbers that do not have a corresponding record in the IPND	8,609	8,071	Reduction due to preselection services ⁸ being incorrectly included in response to Notice.	The ACMA accepts the reduction in numbers as the IPND obligation in this circumstance rests with Telstra.	8,091 (8,071 plus 20 services confirmed by TransACT as missing prior to the start of this investigation)
Numbers which have an incorrect service status code in the IPND	24,350	21,068 (plus 221 Excluded Services numbers)	Reduction due to identification of invalid service numbers (that is, numbers not specified in the Numbering Plan 2015), namely 10-digit mobile or geographic numbers were either missing a digit or had an extra digit.	The ACMA accepts the reduction in numbers as an invalid number does not meet the requirements of the service provider rule or the IPND Code obligations.	21,289 (being the 21,068 identified by TransACT in response to the Preliminary Findings, plus 221 Excluded Services numbers)

19. TransACT has advised it will take the following remediation steps to prevent future errors occurring:

- > set up a new process to compare Changed Data Provider reports with TransACT systems on a monthly basis and take corrective action where required. It will be automated as much as possible and take 2-3 months to implement.
- > review and correct procedures, processes and responsibilities to ensure relevant staff:
 - o identify and fix issues within one business day;
 - o clearly understand the IPND code and the associated data provision timeframes;
 - o have the information and documentation necessary to fix and/or escalate issues.

⁸ Pre-selection means customers with a standard fixed-line phone can choose one provider for their line rental and local phone calls and another for long-distance calls, international calls and calls to mobile phones. In regard to TransACT’s pre-selection services, all local calls and emergency calls are terminated by Telstra, who has the relationship with the end-user with respect to the underlying geographic number. If the customer were to cancel a pre-selection service with TransACT, that customer will still have the underlying geographic number remaining with Telstra.

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 reasonable for the IPND Manager to require that information which the Telstra Licence Conditions require it to obtain, and which are 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 catastrophic 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', TransACT 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 TransACT, it did not upload public number customer data to the IPND for 8,091 public numbers, and TransACT IPND customer data for approximately 21,289 other public numbers had an incorrect connection status⁹.
28. TransACT has advised that the errors have occurred due to a range of technical and/or systems issues. This does not excuse or detract from TransACT'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 TransACT contravened clause 10 of Schedule 2 to the Act.
30. For essentially the same reasons, the ACMA finds that TransACT Capital contravened clause 10 of Schedule 2 to the Act. TransACT Capital is a CSP, which is therefore subject to that provision of the Act – even if it relies on TransACT systems and processes to meet that obligation. Although it is not, according to TransACT, possible to distinguish between data relating to TransACT or TransACT Capital, the ACMA considers that the joint response is evidence of contraventions by both entities – even if it may be inferred that TransACT Capital is responsible for a significantly smaller proportion of those alleged contraventions.
31. Accordingly, the ACMA finds that TransACT and TransACT Capital 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 Act¹⁰ which applies to CSPs (among others).¹¹

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. TransACT and TransACT Capital 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.
35. Based on information provided by TransACT, it did not upload public number customer data to the IPND for 8,091 public numbers associated with an active, or previously active, TransACT or TransACT Capital service.
36. The ACMA therefore finds that TransACT and TransACT Capital contravened clause 4.2.1 of the IPND Code.

Clause 4.2.11

⁹ This investigation has not considered whether other fields in the relevant IPND records contain inaccuracies.

¹⁰ The IPND Code is registered under section 117 of the Act.

¹¹ See cl. 1.3.1(b) of the IPND Code.

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 TransACT, it did not upload customer data to the IPND for approximately 8,091 public numbers, and 21,289 other public numbers had an incorrect Service Status Code.
39. The ACMA therefore finds that TransACT and TransACT Capital contravened clause 4.2.11 of the IPND Code as they failed to ensure that the information they provided to the IPND Manager for TransACT and TransACT Capital 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 TransACT, no public number customer data for approximately 8,091 public numbers was uploaded to the IPND by TransACT and there was incorrect IPND information for a further 21,289 public numbers. TransACT 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 TransACT and TransACT Capital 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.