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Investigation Report

File No.	ACMA2018/808-2
Carriage Service Provider	Borwood Limited Company Number 4705800 (Incorporated in the United Kingdom)
Type of Service	Carriage Service Provider
Relevant Legislation/Code	*Telecommunications Act 1997* *Industry Code (C555:2017) Integrated Public Number Database (IPND)*
Date	31 October 2019

Findings

The Australian Communications and Media Authority (the **ACMA**) finds that Borwood Limited Company Number 4705800 (**Borwood**) 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 set out in the Act, by failing to give Telstra Corporation Limited (**Telstra**, or the **IPND Manager**) the information it reasonably requires 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; and
- the *Industry Code (C555:2017) Integrated Public Number Database (IPND)* (the **IPND Code**) because it failed to:
  - provide public number customer data[1] (**PNCD**) to the IPND Manager, as required by clause 4.2.1 of the IPND Code, in respect of 48 carriage services supplied by Borwood; and
  - supply to the IPND Manager all PNCD updates that occurred on one business day by the end of the next business day, as required by clause 4.2.25 of the IPND Code, in respect of those same 48 carriage services supplied by Borwood.

The IPND and its legislative framework

1. The IPND is an industry-wide database of all public numbers[2]. It was established in 1998 and is managed by Telstra, as required by section 10 of the *Telecommunications (Carrier Licence Conditions - Telstra Corporation Limited) Declaration 2019*. The contraventions referred to in this report occurred when a predecessor instrument, the *Carrier Licence Conditions (Telstra Corporation Limited) Declaration 1997* (**Telstra Licence Conditions**), was in force. The maintenance of the IPND by the IPND Manager is supported by:

[1] As defined in the IPND Code, where it is also referred to as 'PNCD'.
[2] In this report, *public number* means a number specified in the *Telecommunications Numbering Plan 2015.*

a. a service provider rule requiring a CSP that supplies a carriage service to an end user, where that user has a public number, to give Telstra such information as Telstra reasonably requires in connection with its obligations to provide and maintain the IPND; and

b. the IPND Code, an industry code registered under Part 6 of the Act, which sets out procedures relating to the storage of information in the IPND and the transfer of information to and from the IPND Manager.

2. The IPND Code, and the associated *IPND Data Guideline (G619:2017)*, refer to the *Integrated Public Number Database (IPND) Data Users and Data Providers Technical Requirements for IPND* (the **Technical Requirements)**.

3. The Technical Requirements issued by Telstra set out the detailed operational and technical requirements for the supply of information by CSPs, and by data providers acting on behalf of CSPs, to the IPND Manager.

Background

4. Borwood is a carriage service provider within the meaning of section 87 of the Act.

5. Analysis by the ACMA identified certain public numbers allocated to Borwood that appeared to be associated with a connected service, but were not present in the IPND.

6. Upon enquiry by the ACMA, Borwood stated that PNCD had not been provided to the IPND Manager in respect of 48 carriage services, all of which were currently active.

7. On 13 August 2019, the ACMA commenced an investigation under subsection 510(1) of the Act into whether Borwood had contravened the Act and/or the IPND Code.

8. The ACMA provided preliminary findings to Borwood on 14 August 2019. In a response to the ACMA on 4 September 2019, Borwood did not refute the findings.

Reasons

Compliance with the Telecommunications Act

9. 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.

10. 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 meet its IPND obligations.

11. The information which the IPND Manager requires from CSPs in order to fulfil its IPND obligations includes information specified in the Telstra Licence Conditions and the Technical Requirements. This includes the public number, customer name and address, and the name of the CSP providing the service. This information, and any subsequent updates to PNCD, must be provided to the IPND Manager within the required timeframes as specified in the IPND Code.

12. Having regard to the critical functions of the IPND,[3] and the public purposes sought to be served by relevant provisions of the Act, the Telstra Licence Conditions and the IPND Code, the ACMA considers that it is reasonable for the IPND Manager to require this information from CSPs, since it is essential to the proper functioning of the IPND.

[3] Data in the IPND is used by the emergency call service, the emergency warning system, and national security and law enforcement agencies.

13. Based on information provided by Borwood, between 17 August 2007 and 17 August 2017, Borwood did not upload PNCD to the IPND in respect of 48 carriage services provided by it to end-users using public numbers. Therefore, it did not give the IPND Manager the information it reasonably requires to meet its IPND obligations.

14. Accordingly, the ACMA finds that Borwood contravened subsection 101(1) of the Act as it failed to comply with the service provider rule in subclause 10(2) of Schedule 2 to the Act.

Compliance with the IPND Code

Clause 4.2.1

15. Clause 4.2.1 of the IPND Code obliges a CSP to supply relevant PNCD to the IPND Manager for each public number it uses to supply a carriage service. As indicated above, Borwood is a CSP.

16. PNCD includes, among other things, the public number, customer name and address, and the name of the CSP providing the service (see the definition in clause 2.2 of the IPND Code).

17. Based on information provided by Borwood, between 17 August 2007 and 17 August 2017, it did not upload PNCD to the IPND for 48 public numbers used in connection with an active, or previously active, Borwood service.

18. Accordingly, the ACMA finds that Borwood contravened clause 4.2.1 of the IPND Code.

Clause 4.2.25

19. Clause 4.2.25 of the IPND Code requires a CSP to supply to the IPND Manager all PNCD updates that occur on one business day, by the end of the next business day.

20. PNCD updates can include a change to the customer data for an existing public number, or any new or ported public numbers for which customer data has not been previously supplied to the IPND by the CSP.

21. As noted above, based on information provided by Borwood, between 17 August 2007 and 17 August 2017, no PNCD for 48 public numbers was uploaded to the IPND. Consequently, updates for these services were not supplied to the IPND within the requisite timeframe.

22. Accordingly, the ACMA finds that Borwood contravened clause 4.2.25 of the IPND Code by failing to supply PNCD updates that occur on one business day, by the end of the next business day.