

## Investigation Report

<b>File No</b>	ACMA2020/149
<b>Entity</b>	Dataphone Pty Ltd
<b>ACN</b>	050 323 950
<b>Scope of Investigation</b>	Compliance with section 128 of the <i>Telecommunications (Consumer Protection and Service Standards) Act 1999</i>
	Compliance with the service provider rule at clause 1 of Schedule 2 to the <i>Telecommunications Act 1997</i>

## Findings

The Australian Communications and Media Authority (the **ACMA**) finds that Dataphone Pty Ltd (ACN 050 323 950) (**Dataphone**) has contravened:

- (a) subsection 128(1) of the *Telecommunications (Consumer Protection and Service Standards) Act 1999* (the **TCPSS Act**);
- (b) the service provider rule set out at clause 1 of Schedule 2 to the *Telecommunications Act 1997* (the **Telecommunications Act**); and
- (c) subsection 101(1) of the *Telecommunications Act*,

by failing to join the Telecommunications Industry Ombudsman (**TIO**) scheme.

## Background

1. On 23 December 2019, the ACMA received a referral from the TIO alleging that Dataphone had failed to join the TIO scheme in accordance with subsection 128(1) of the TCPSS Act.
2. The TIO became aware that Dataphone appeared to be providing an NBN service for the first time when it received a complaint. Specifically, the TIO's referral referenced a complaint it received on 26 September 2019 from one of Dataphone's customers about an NBN service that it was being billed for despite allegedly being faulty.
3. The TIO contacted Dataphone by email on 11 November 2019, by telephone on 20 November 2019 and by email on 27 November 2019 to inform Dataphone that it was required to become a member of the TIO scheme. However, no TIO membership application was received by the TIO prior to its referring this matter to the ACMA.
4. The ACMA investigated the TIO referral and on 27 April 2020 the ACMA sent its preliminary findings report to Dataphone, inviting it to respond by 11 May 2020.
5. On 19 May 2020, Dataphone responded to the preliminary findings report.

## Legislative framework

6. Under paragraph 510(1)(aa) of the *Telecommunications Act*, the ACMA may investigate a matter where it has reason to suspect that a person may have contravened the TCPSS Act.
7. Section 128 of the TCPSS Act requires each carrier and eligible carriage service provider (**CSP**) to enter into the TIO scheme. For the purpose of Part 6 of the TCPSS Act, an 'eligible CSP' includes a CSP who supplies standard telephone services to residential or small business customers, a public mobile telecommunications service, or carriage services that enable end-users to access the internet (subparagraphs 127(a)(i), (ii) and (iii) of the TCPSS Act).

8. When a CSP contravenes subsection 128(1) of the TCPSS Act, it also contravenes the service provider rule set out at clause 1 of Schedule 2 to the Telecommunications Act and subsection 101(1) of that Act.

### **Findings and reasons**

9. Dataphone is an 'eligible CSP' as it supplies standard telephone services to small business customers (subparagraph 127(a)(i) of the TCPSS Act).
10. Section 6 of the TCPSS Act defines a standard telephone service as a carriage service for the purpose of voice telephony (or an equivalent form of communication for an end-user with a disability) between end-users supplied with the same service, whether or not the end-users are connected to the same telecommunications network.
11. Dataphone states on its webpage at <https://www.dataphone.com.au/nbn> that it is a retail service provider of NBN broadband and voice services to Australian consumers and businesses. Dataphone also states on that webpage that its clients can select from three high speed broadband and phone service plans. An extract from Dataphone's website obtained on 19 May 2020 is at **Attachment A**.
12. In responding to the preliminary findings report on 19 May 2020, Dataphone stated that it was not aware of its obligations to join the TIO scheme. Further, Dataphone advised that it would make an application to join the TIO scheme.
13. The TIO advised that Dataphone joined the TIO scheme on 25 May 2020.
14. On 25 May 2020, Dataphone confirmed that it became an eligible CSP in September 2019.
15. For the above reasons, Dataphone was an eligible CSP for the period September 2019 to 25 May 2020, and by not joining the TIO scheme for that period, it contravened subsection 128(1) of the TCPSS Act, and thereby failed to comply with the service provider rule set out at clause 1 of Schedule 2 to the Telecommunications Act, in contravention of subsection 101(1) of the Telecommunications Act.

# OUR NBN

Dataphone is proud to be a Retail Service Provider of nbn™ broadband and voice services to Australian consumers and businesses.

It's new technology bringing you internet and home phone access, plus richer entertainment experiences.

The government-owned nbn™ network is being rolled out to provide Australians with access to a reliable broadband connection. Once the nbn™ Access Network is available in your area, we can help you get set up with broadband, home phone and other internet services you want.

## We're nbn™ ready, are you?

✕

- Service available
- Other fibre provider

- Build commenced

## Availability

nbn™ is a highly available communications network that spans Australia, designed to reach every business, residence, and school in the country. The goal behind the nbn™ was to bridge the digital divide and overcome distance barriers, and provide high speed to any location.

For a detailed Service Qualification Examination, contact us today!

## About NBN

The nbn™ (National Broadband Network) is Australia's first national wholesale-only, open access communications network. It is built to bring high speed broadband and phone services within reach across the country. The nbn™ will utilise the best technology for a given location and improve connectivity methods between locations. Every home, school, and workplace in the country will have access to the nbn™.



## Our Plans

Our clients select from our 3 tier high-speed broadband and phone service plans for superior internet connectivity and peak business performance.

25 Mbps / 5 Mbps

50 Mbps / 20 Mbps

100 Mbps / 40 Mbps

We also provide TC2 Business Grade nbn™ services on request, which provide a 'best effort' service for time sensitive communications.

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# SIP TRUNKING

Dataphone has over 25 years' experience in delivering voice and telephony solutions. Many of our customers are already taking advantage of our SIP trunking solution to reduce their monthly telco spend and set themselves free from expensive ISDN costs.

SIP Trunking is the simplest and most cost-effective way to connect your existing PBX or Unified Communications systems to the public switched telephony network (PSTN). SIP Trunking leverages your WAN or data network to deliver calls to and from the PSTN, alleviating the need to pay for expensive ISDN services.

[Download Brochure](#)

## Frequently Asked Questions

### Why should I make the move to SIP Trunks?

Customers who leverage SIP Trunks gain benefits such as:

- Cost Savings (over traditional ISDN).
- More flexibility and control over call routing (web based configuration options).
- Business continuity and disaster recovery (e.g. call forward network unreachable and enterprising trunking options).

### How many channels do I need for my business?

As a rule of thumb, we recommend you get one SIP channel for every 5 handset users in your business. However, every business is slightly different, so we will help you analyse your bill and usage to determine the channels that are right for you.

### How much bandwidth do I need for a SIP Trunk?

We use the G.711 audio codec for SIP calls. For 10 channels of SIP trunking, you will require a 1 Mbps symmetrical network link from Dataphone.

### Will Dataphone SIP Trunking work with my PBX?

Your phone system needs to be SIP or IP ready (an IP-PBX). Traditional or non-SIP ready phone systems can also be made to work with SIP Trunks via a voice gateway or ATA (Analogue Telephone Adaptor), we can optionally provide this for you.

### What PBX equipment vendors will work with Dataphone SIP Trunking?

We have a comprehensive list of compatible PBX systems and known working configurations for these. Let us know your PBX name and model and we'll confirm if it's supported.

What technology platform delivers Dataphone SIP Trunking?

Dataphone SIP Trunks are delivered using the state of the art, fully redundant ConnectYou platform. ConnectYou supports direct peering with Cloud PBX platform providers and independent SIP Trunks.

Can I bring my numbers / DIDs with me to Dataphone?

Yes. We will organise a number port from your carrier to us and we will manage your numbers for you.

Can I bring my inbound 1300 / 1800 numbers with me to Dataphone?

Yes. We will organise a number port from your carrier to us and we will manage your numbers for you.

Will my fax service connected off my PBX still work?

Yes. Our SIP Trunks support T.38 and fax pass through. If there are any challenges, we can provide you other options for your fax service such as Fax to Email or a dedicated analogue PSTN service.

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