



Australian Government  
Australian Communications  
and Media Authority

## Subsection 102(2) of the *Telecommunications Act 1997*

### Direction in relation to clause 10 of Schedule 2 to the *Telecommunications Act 1997*

**TO:** Primus Telecommunications Pty Ltd ACN 071 191 396

**OF:** Level 10, 452 Flinders Street, Melbourne VIC 3000

#### Background

The Australian Communications and Media Authority (**the ACMA**) is responsible for monitoring and enforcing compliance by carriage service providers (**CSPs**) with their obligations under the *Telecommunications Act 1997* (**the Telecommunications Act**).

Telstra provides and maintains the Integrated Public Number Database (the IPND), in accordance with the *Carrier Licence Conditions (Telstra Corporation Limited) Declaration 1997*. In that capacity, Telstra is hereafter referred to as the IPND Manager.

Primus Telecommunications Pty Ltd (ACN 071 191 396) (**Primus**) is a CSP as defined in section 87 of the Telecommunications Act. As a CSP, it is subject to the rule in subsection 101(1) of the Telecommunications Act, which requires it to comply with the 'service provider rules' applicable to it. The service provider rules, set out in section 98 of the Telecommunications Act, include those in Schedule 2 to the Telecommunications Act.

The ACMA has investigated whether Primus contravened the Telecommunications Act; in particular, whether Primus complied with clause 10 of Schedule 2 to the Telecommunications Act, which requires CSPs to give the IPND Manager the information it reasonably requires to provide and maintain the IPND, where a CSP supplies a carriage service to an end-user, and the end-user has a public number.

The ACMA found that, on multiple occasions, Primus failed to give the IPND Manager the information it reasonably required to provide and maintain the IPND, in breach of clause 10 of Schedule 2 to the Telecommunications Act, thereby contravening subsection 101(1) of the Telecommunications Act.

## **DIRECTION**

The ACMA, under subsection 102(2) of the Telecommunications Act, hereby directs Primus to take the following action directed towards ensuring that it does not contravene clause 10 of Schedule 2 to the Telecommunications Act, or is unlikely to contravene that clause, in the future:

### **Independent Audit**

1. Within 60 days from the date of this direction, Primus must commission an appropriately experienced and qualified independent person to audit and report to Primus in writing on:
  - (a) the efficacy of Primus' systems, processes and practices (including, without limitation, the training provided to Primus staff involved in customer data entry) that relate to Primus' compliance with the obligation in clause 10 of Schedule 2 to the Telecommunications Act; and
  - (b) recommendations to improve the efficacy of those systems, processes and practices.
2. Primus must ensure that the audit report referred to in paragraph 1 is completed and delivered to Primus by no later than 31 May 2019.
3. Primus must prepare a written response to any recommendations in the audit report referred to in paragraph 1 by 30 June 2019, and implement all reasonable recommendations in the audit report by no later than 31 December 2019. Where Primus regards any recommendation in the audit report as unreasonable, or has decided not to implement a recommendation, it must record the reasons for its view in the written response.

### **Reconciliations**

4. Primus must undertake a reconciliation of its own services (including any services for which public number customer data is uploaded to the IPND on Primus' behalf by a third-party Data Provider<sup>1</sup>) against the IPND, by 31 March 2019, and thereafter every quarter until 31 December 2019.
5. On completion of each reconciliation referred to in paragraph 4, Primus must produce a written report detailing at least the following information:
  - a) any discrepancies identified in the reconciliation process (including any services which have missing records or records with an incorrect connection status);
  - b) the date the discrepancy was identified;
  - c) a description of the action that has been taken to rectify the discrepancy, including updating the relevant IPND entry; and
  - d) the date the IPND was updated.
6. From the date of this direction, Primus must review the monthly Changed Data Provider

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<sup>1</sup> '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.



Reports<sup>2</sup> produced by the IPND Manager within 7 days of each monthly report being made available.

7. On completion of each review referred to in paragraph 6, Primus must produce a written report detailing at least the following information:
  - a) any Primus services that have been incorrectly overwritten in the IPND by another provider and the name of the provider;
  - b) any services of another provider that have been incorrectly overwritten in the IPND by Primus and the name of the provider; and
  - c) a description of the action that has been taken to rectify the discrepancy, including updating the relevant IPND entry and/or notifying the relevant provider.

### **Implementing effective systems, process and practices**

8. Primus must implement and maintain effective systems, processes and practices for ensuring compliance with clause 10 of Schedule 2 to the Telecommunications Act, including:
  - a) systems, processes and practices designed to ensure that accurate, complete and up to date public number customer data for all Primus services is uploaded to the IPND in the required timeframes;
  - b) systems, processes and practices designed to ensure that any upload of public number customer data to the IPND that generates an error notification from the IPND Manager is investigated and rectified (where rectification is within Primus' power) within one business day;
  - c) systems, processes and practices designed to ensure that Primus can readily identify its own connected services in its own systems to allow for accurate reconciliation of its services against the IPND;
  - d) systems, processes and practices designed to ensure that public number customer data uploaded to the IPND uses a unique CSP/Data Provider code combination, as assigned by the IPND Manager, to identify the CSP responsible for the accuracy and completeness of the IPND record and to identify the Data Provider responsible for uploading the data;
  - e) training for relevant staff on:
    - (i) the collection, provision, updating, correction and reconciliation of customer records;
    - (ii) processes for checking and correction of errors;
    - (iii) IPND-related regulatory obligations; and
    - (iv) the timing and importance of updates to the IPND.

### **Reporting**

9. Primus must provide a copy of the audit report referred to in paragraph 1, and the

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<sup>2</sup> The Changed Data Provider report is listed in the IPND Code as a monthly report issued by the IPND Manager which informs Data Providers of all numbers gained and lost in the last month.

written response referred to in paragraph 3, to the ACMA by no later than 31 July 2019.

10. Primus must provide the written report referred to at paragraph 5 to the ACMA within one month of each quarterly reconciliation.
11. At the same time Primus provides the written report referred to at paragraph 10, Primus must provide to the ACMA:
  - a) the written monthly reports referred to at paragraph 7; and
  - b) a written report on its compliance with the direction in paragraph 8.
12. Primus must keep records sufficient to demonstrate compliance with this direction and retain those records for at least 24 months after the date the record is created.
13. Any report provided to the ACMA in accordance with this direction must be in writing and signed by Primus' chief legal counsel or head of regulatory affairs.

#### **TAKE NOTE**

14. Section 98 of the Telecommunications Act sets out the service provider rules which are applicable to a CSP. This includes the service provider rule at clause 10 of Schedule 2 to the Telecommunications Act, which requires that if:
  - a) a CSP supplies a carriage service to an end-user; and
  - b) the end-user has a public number;the CSP must give the IPND Manager such information as it reasonably requires to provide and maintain the IPND.
15. Subsection 101(1) of the Telecommunications Act provides that a service provider must not contravene the service provider rules that apply to it.
16. Under subsection 102(2) of the Telecommunications Act, the ACMA can direct a service provider to take specified action directed towards ensuring that the service provider does not contravene a service provider rule, or is unlikely to contravene the rule, in the future.
17. Subsection 102(4) of the Telecommunications Act provides that a carrier must not contravene a direction given under subsection 102(2).

#### **REVIEW RIGHTS**

18. Primus may request the ACMA reconsider its decision to give the direction, by application in writing made within 28 days after being informed of the decision, in accordance with section 558 and Part 29 of the Telecommunications Act.
19. If Primus is dissatisfied with the ACMA's decision upon reconsideration then, in accordance with section 562 of the Telecommunications Act, Primus has the right to seek review of the reconsideration decision by the Administrative Appeals Tribunal.



## ACCESS TO DOCUMENTS

20. Primus also has a right to seek access to documents about the decision to give this direction, or any associated reconsideration decision, under the *Freedom of Information Act 1982 (FOI Act)*. The application must be made to the ACMA in writing and you must:

- state that the request is an application for the purpose of the FOI Act;
- provide sufficient information about the documents sought to be obtained as is reasonably necessary to enable the ACMA to identify them; and
- give details of how notices under the FOI Act may be sent to you (e.g. postal address or email address).

21. The ACMA's website has more information on how to make an application at [www.acma.gov.au](http://www.acma.gov.au).

## MAKING A COMPLAINT

22. If you are dissatisfied with the way the ACMA handled this matter, you may contact the person whose details are provided below in paragraph 24.

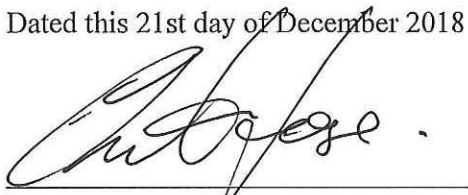
23. A complaint may also be made to the Commonwealth Ombudsman. (The Ombudsman usually prefers that your concerns are raised with the ACMA first.) There is an office of the Commonwealth Ombudsman in each capital city. Further information may be obtained at [www.ombudsman.gov.au](http://www.ombudsman.gov.au) or call 1300 362 072.

## CONTACTING THE ACMA

24. Should you require further information, please contact:

Executive Manager  
Unsolicited Communications and Numbering Branch  
Australian Communications and Media Authority  
PO Box 13112 Law Courts  
Melbourne, VIC 8010  
Ph: (03) 9963 6800  
Email: [ipnd@acma.gov.au](mailto:ipnd@acma.gov.au)

Dated this 21st day of December 2018



Signature of Member

CHRISTIAN JOSE

Name (Please Print)



Signature of Member

General Manager

JENNIFER MCNEILL

Name (Please Print)

