

9 May 2019

Ms Catherine Douglas
Crosby Textor Research Strategies Results Pty Ltd
Governor Macquarie Tower
Level 26, 1 Farrer Place
SYDNEY NSW 2000

By email: [REDACTED]

ACMA file reference ACMA2018/1139

Dear Ms Douglas

Research authorisation under the *Telecommunications Regulations 2001*

I refer to the application by Crosby Textor Research Strategies Results Pty Ltd (CT) and Enterprise Marketing & Research Services Pty Ltd (EMRS) received by the Australian Communications and Media Authority (ACMA) on 18 April 2019 for research authorisation under the *Telecommunications Regulations 2001* (the Regulations).

Prerequisites to authorisation

The ACMA must grant an authorisation if it is reasonably satisfied that:

- the kind or kinds of research proposed to be covered by the authorisation is permitted research as defined in the Regulations
- each research entity will comply with the conditions of the authorisation (including any additional conditions specified by the ACMA). In this regard, the ACMA must consider:
 - the practices, procedures, processes and systems the entity has in place, or intends to put in place, to comply with the conditions of the authorisation
 - the extent to which the entity's collection, use and disclosure of personal information has complied with, or is consistent with, the *Privacy Act 1988* (whether or not that Act applies to the entity)
 - the extent to which an applicant has complied with a former authorisation under the *Telecommunications Integrated Public Number Database Scheme 2017* or the Regulations, neither of which apply in CT or EMRS' case.
- the applicants will comply with rules relating to the use and disclosure of authorised unlisted mobile number information and research information after an authorisation ends, or a research entity is removed from an authorisation by the ACMA.

Grant of authorisation

On 9 May 2019, based on the information provided in CT and EMRS' application and by email on 30 April 2019, and having considered the required matters, the ACMA granted CT and EMRS a research authorisation under the Regulations as follows:

Entities covered by the authorisation	CT and EMRS
Duration of authorisation	Commencing on the date Telstra Corporation Ltd (the IPND Manager) first discloses the authorised unlisted mobile number information to CT, and ending 12 months after that date
Permitted research	Research relating to electoral matters conducted for registered political party, the Liberal Party of Australia, as outlined in CT and EMRS' application
Authorised unlisted mobile number information	The number and associated postcodes of all unlisted mobile numbers in the Integrated Public Number Database not indicated as used for government, business, or charitable purposes
Additional conditions specified by the ACMA	Nil
ACMA contact where CT/EMRS is required to notify the ACMA under the Regulations	Eve Osiowy Manager, Industry Services and Numbering Section Tel: (03) 9963 6906 Email: eve.osiowy@acma.gov.au cc ipnd@acma.gov.au
ACMA contact to be provided to complainants and in internal disputes procedures	ACMA Customer Service Centre Telephone: 1300 850 115 Email: ipnd@acma.gov.au

CT and EMRS are reminded that the authorisation is subject to the conditions set out at subdivision 5.2.3 of the Regulations and that contravention of a condition of authorisation is an offence as outlined at regulation 5.36. A summary of the conditions is at **Attachment A**.

Please also note that under the Regulations:

- the ACMA can specify additional conditions after granting a research authorisation
- the ACMA can remove a research entity from a research authorisation if it is satisfied that a condition of authorisation has been contravened
- a research entity can request to be removed from a research authorisation.

Publication

The ACMA will publish the following details regarding the authorisation on its website:

- the names of the research entities (CT and EMRS)
- the permitted research purpose (electoral matter research), and
- the duration of the authorisation (12 months).

Publication is for the purposes of general transparency and because:

- an authorised research entity is required under the Regulations to tell a contacted person that the use of the number is authorised by the ACMA for the purposes of the research – publication will enable contacted persons to verify that information
- it is consistent with the ACMA's practice in relation to the other scheme under which the ACMA can authorise use and disclosure IPND information, the *Telecommunications Integrated Public Number Database Scheme 2007*.

Next steps

As required under the Regulations, the ACMA will provide a copy of this notice of authorisation to EMRS as an authorised research entity under this authorisation and Telstra, in its capacity as IPND Manager.

CT must notify the ACMA and EMRS within 10 business days of receiving the authorised unlisted mobile number information from the IPND Manager.

Please contact Eve Osiowy for all notification requirements under the authorisation, or if you have any questions.

Yours sincerely

**Australian
Communications
and Media Authority**

www.acma.gov.au



Bridget Smith

A/g Executive Manager

Unsolicited Communications and Numbering Branch

Cc: David Bell, EMRS (by email)
Michael J Ryan, Telstra Corporation Limited as IPND Manager (by email)

Attachment A – Summary of conditions of authorisation under the *Telecommunications Regulations 2001*

NB: terms in **bold** are defined in the Regulations but for brevity *authorised unlisted mobile information* is referred to as **mobile information** and *authorised research entity* is referred to as **entity**.

Reg	Subject	Summary (see Regulations for full text)
5.16	Receipt of mobile information	Entity must give written notice of receipt of mobile information to ACMA and other entities under same authorisation within 10 business days of receipt
5.17	Use and disclosure of mobile information	<p>Entity must not make a record of, or use, mobile information unless it is for the purposes of authorised research under the authorisation.</p> <p>Entity must not disclose mobile information except:</p> <ul style="list-style-type: none"> to its research employees to other entities under same authorisation to the ACMA on request under any other law that applies to the entity
5.18	Covered by the Privacy Act	Entity must be covered by the Privacy Act while the authorisation covers the entity.
5.19	Compliance with Privacy Act	<p>If entity collects, uses or discloses personal information about an individual for authorised research under the authorisation, it must not do an act, or engage in a practice, that breaches:</p> <ul style="list-style-type: none"> an Australian Privacy Principle in relation to personal information about the individual; or a registered APP code that binds the entity in relation to personal information about the individual. <p>This applies to all entities regardless of whether:</p> <ul style="list-style-type: none"> the entity is a registered political party; or the act or practice of the entity is exempt under section 7C of the Privacy Act (which provides that certain political acts and practices are exempt).
5.20(1) and (2)	Contacting persons for authorised research	<ul style="list-style-type: none"> Mobile information can only be used for calls During a call to a person (contacted person) using the mobile information, the entity must tell the contacted person during the call: <ul style="list-style-type: none"> the entity's name the purpose of the research how the entity obtained the mobile number used to call the person how the entity proposes to use research information relating to the person that the use of the number by the entity is authorised by the ACMA for the purposes of the research if asked by the person—how the person can access any personal information about the person held by the entity. During the call the entity must also <ul style="list-style-type: none"> ask the person whether they consent to the use and disclosure research information relating to them tell the person that they may withdraw any consent so given at any time during the call give the person any other information that is required by law (for example, under the Privacy Act) comply with all applicable laws relating to unsolicited contact with another person.
5.20(3) and (4)	Contacted person does not consent	<p>If a contacted person does not consent or withdraws consent, the entity:</p> <ul style="list-style-type: none"> must not make a record of, use, or disclose any research

Reg	Subject	Summary (see Regulations for full text)
		<p>information the entity has relating to the person</p> <ul style="list-style-type: none"> • must not use the mobile information relating to the person • as soon as reasonably practicable: <ul style="list-style-type: none"> ○ take all reasonable steps to destroy any research information relating to the person within 10 business days ○ give written notice to any other entity under the same authorisation that mobile information about the contacted person must not be used. <p>If an entity is notified by another entity that a contacted person has refused or withdrawn consent, the entity must not use the contacted person's mobile information.</p>
5.20(5) and (6)	Internal disputes procedures	<p>The entity must have internal dispute resolution procedures to deal with inquiries/complaints from contacted persons about use or disclosure of any research information relating to the person.</p> <p>If a contacted person complains, the entity must:</p> <ul style="list-style-type: none"> • tell the contacted person that if they are dissatisfied with the way the complaint is handled, the person can complain to the ACMA • give the contacted person contact information for the ACMA • if requested by the ACMA, provide reasonable assistance to the ACMA in relation to complaints.
5.21	Disclosure of research information	<p>An entity must not disclose research information relating to a contacted person unless authorised, or required to do so, as follows:</p> <ul style="list-style-type: none"> • the entity may disclose research information to the entity's research employees • the entity may disclose research information if: <ul style="list-style-type: none"> ○ the information is de-identified, and ○ the information does not include the person's public number • under any other law that applies to the entity. <p>This rule is subject to the prohibition on recording, using or disclosing research information of a contacted person who refuses or withdraws consent (sub-reg 5.20(3)).</p>
5.22	Technical system for receiving mobile information	<p>Entity must have technical systems to receive mobile information in accordance with any technical method specified by Telstra.</p>
5.23	Compliance with the <i>Telecommunications Act 1997</i>	<p>An entity must comply with any requirements imposed on it by the Act and any legislative instrument made under the Act.</p> <p>(This includes the <i>Telecommunications (Telemarketing and Research Calls) Industry Standard 2017</i>.)</p>
5.24	Employees of the entity	<p>An entity must take all reasonable steps to ensure that each research employee of the entity:</p> <ul style="list-style-type: none"> • is made aware of the conditions of the authorisation (including any additional conditions specified by the ACMA) • cooperates with the entity in complying with those conditions • notifies the entity in writing as soon as reasonably practicable after the research employee becomes aware of an act or omission that would result in a contravention of a condition.
5.25	Contravention of authorisation conditions	<p>If an entity becomes aware of a breach of a condition, it must</p> <ul style="list-style-type: none"> • give written notice to the ACMA and other entities under the same authorisation as soon as reasonably practicable • take reasonable steps to minimise the effects of contravention.