

Investigation Report

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| Entity | Aussie Broadband Limited ACN 132 090 192 (Aussie Broadband) |
| ACN | 132 090 192 |
| Type of entity | Carriage Service Provider and Data Provider to the Integrated Public Number Database (IPND) |
| Relevant Legislation | <i>Telecommunications Act 1997</i> Industry Code (C555:2020) Integrated Public Number Database (IPND) |

Findings

The Australian Communications and Media Authority (**ACMA**) finds that Aussie Broadband has, as set out at Table 1 below, contravened the:

- *Telecommunications Act 1997* (the Act), and
- Industry Code (C555:2020) Integrated Public Number Database (IPND) (IPND Code).

Table 1: Summary of contraventions.

| Legislation | Provision | Number of contraventions |
|--------------------|-------------------|---------------------------------|
| Act | Subsection 101(1) | 30,014 |
| IPND Code | Clause 4.2.1 | 30,014 |
| IPND Code | Clause 4.2.16 | 5,924 |
| IPND Code | Clause 5.1.6 | 168 |
| IPND Code | Clause 5.3.1 | 2 |

Reasons

1. The reasons for the ACMA's view, including the key elements which establish the contraventions is based on:
 - a. information provided by Aussie Broadband on 27 April, 6 May, 11 May and 12 May 2022
 - b. reports obtained from Telstra Corporation Ltd (the IPND Manager), and
 - c. information provided by Aussie Broadband on 3 June 2022 in response to a statutory notice given to it under section 521 of the Act (the Notice).

Background

2. The IPND is a centralised database of public numbers¹ established in 1998. It is managed by the IPND Manager in accordance with section 10 of the *Telecommunications (Carrier Licence Conditions - Telstra Corporation Limited) Declaration 2019* (Telstra Licence Conditions), and under predecessor instruments before 2019.
3. Carriage service providers (CSPs) must ensure that customer data about carriage services they supply to end users in connection with a public number is provided to the IPND Manager for inclusion in the IPND. Customer data is provided by Data Providers. A CSP can either act as its own Data Provider or have a third-party Data Provider provide the data on the CSP's behalf.
4. IPND data is used for critical purposes by the emergency call service, the emergency alert system, and national security and law enforcement agencies. It can also be used for permitted research and publication of number directories upon authorisation by the ACMA.
5. The maintenance of the IPND by the IPND Manager is supported by regulatory obligations, including:
 - a. a service provider rule, which applies to CSPs (section 86 of the Act). It requires a CSP which supplies a carriage service to an end-user, where the end-user has a public number, to give the IPND Manager such information as it reasonably requires in connection with its obligation to provide and maintain the IPND (subclause 10(2) of Schedule 2 to the Act), and
 - b. the IPND Code, an industry code registered under Part 6 of the Act, which sets out procedures relating to the transfer of information to and from the IPND Manager and the storage of information in the IPND.
6. Further, the IPND Manager has issued the *Integrated Public Number Database (IPND) Data Users and Data Providers Technical Requirements for IPND* (the Technical Requirements) which set out information required by the IPND Manager. It details:
 - a. the information required under subsections 10(3)-(5) of the Telstra Licence Conditions including, in relation to a carriage service, the public number, customer name and address, the name of the CSP providing a service to the number, and whether it is unlisted,
 - b. other information the IPND Manager requires, including the type of service and whether the service to the public number is connected or disconnected, and
 - c. operational and technical requirements for the supply of that customer data by CSPs, and by data providers on behalf of CSPs, to the IPND Manager.
7. The IPND Code reiterates the requirement for customer data under the Technical Requirements and further sets out what, and how, customer data is to be provided to the IPND Manager (for example, setting out timeframes for provision of data to the IPND, and processes for identifying and rectifying errors in IPND data).
8. The data is defined in the IPND Code as public number customer data, or PNCD, and that term is used in this report.
9. The IPND Manager's Technical Requirements are referenced in the IPND Code, and the associated IPND Data Guideline (G619:2017) and Industry Guidance Note (IGN019) – IPND reconciliation data extract and Data Provider upload validation process.

¹ Public numbers are numbers specified in the Telecommunications Numbering Plan 2015 and includes most numbers such as geographic, freephone, local rate, premium rate, and international numbers.

10. Having regard to the critical uses of IPND data, and the public policy purposes to be served by relevant provisions of the Act, the Telstra Licence Conditions and the IPND Code, the ACMA considers that the IPND Manager requires PNCD from CSPs, since it is essential to the proper functioning of the IPND.
11. For the same reason, PNCD must be accurate, complete and up-to-date. An absence of, or inaccurate or incomplete, PNCD can have potential adverse impacts on the critical activities for which IPND data is used and lead to risks to individuals and public safety.

Relevant provisions of the Act

12. Subsection 101(1) of the Act requires that service providers, including CSPs, comply with the service provider rules that apply to them. Subsection 101(3) states that subsection 101(1) is a civil penalty provision.
13. Subsection 98(1) of the Act provides that the service provider rules include those set out in Schedule 2 to the Act.
14. Clause 1 of Schedule 2 to the Act provides that service providers must comply with the Act.
15. Clause 10 of Schedule 2 requires that if a CSP supplies a carriage service to an end-user, and the end-user has a public number, the CSP must give the IPND Manager such information as it reasonably requires to fulfil its obligation to provide and maintain the IPND.

Compliance with the Act

16. The ACMA has considered whether Aussie Broadband complied with the service provider rule at clause 10 of Schedule 2 to the Act by addressing the questions set out in Table 2 below.

Table 2: Assessing compliance with the service provider rule

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| Is Aussie Broadband a CSP? | Aussie Broadband is a CSP as defined at section 87 of the Act and it supplies carriage services to the public. Accordingly, it must comply with the service provider rules that apply to it. |
| Does or did Aussie Broadband supply the carriage services to end-users with public numbers? | Aussie Broadband supplies or supplied the carriage services under investigation to end-users with public numbers. |
| Did Aussie Broadband give the IPND Manager such information as the IPND Manager reasonably requires to provide and maintain the IPND in relation | <p>Based on Aussie Broadband’s response to the Notice, Aussie Broadband did not give the IPND Manager information it reasonably requires to provide and maintain the IPND on 30,014 occasions in connection with carriage services under investigation which Aussie Broadband is supplying or supplied to end-users with public numbers.</p> <p>Specifically, between 5 November 2021 and 11 May 2022, Aussie Broadband failed to provide the IPND Manager:</p> <ul style="list-style-type: none"> • any PNCD on 24,090 occasions (in relation to 12,413 VoIP services and 11,677 mobile services), • updates to PNCD pre-existing in the IPND after the PNCD changed (e.g. the customer changed their address, listing status or disconnected the service) on 5,924 occasions² (in relation to 5,413 |

² The ACMA has excluded from its findings some of the data provided by Aussie Broadband in response to the ACMA’s Notice and preliminary findings report. The ACMA excluded 349 occasions from the findings because the information provided by Aussie Broadband indicated that although it had attempted to supply an updated customer record to the IPND, upon review the customer record had not been updated in any way.

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| to the carriage services? | VoIP services and 511 mobile services). Specifically, Aussie Broadband did not supply updated information when customers disconnected their service on 5,000 occasions Aussie Broadband supplied the missing and updated PNCD to the IPND Manager between 11 May and 24 May 2022, following completion of a reconciliation of its PNCD against that held in the IPND. |
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17. Accordingly, the ACMA finds that Aussie Broadband contravened subsection 101(1) of the Act on 30,014 occasions by it failing to comply with the service provider rule at clause 10 of Schedule 2 to the Act.

Compliance with the IPND Code

Clause 4.2.1 – provision of PNCD to the IPND Manager

18. Clause 4.2.1 of the IPND Code states:

Each CSP that provides a Carriage Service to a Customer using a Number must provide the IPND Manager the relevant PNCD, including transaction updates [such as changes to PNCD], in respect of each Carriage Service it supplies, that occur on one Business Day, by the end of the next Business Day. This includes all transactions relating to connections or disconnections.

19. The ACMA has considered whether Aussie Broadband complied with clause 4.2.1 of the IPND Code by addressing the questions set out in Table 3 below.

Table 3: Assessing compliance with the IPND upload obligation

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| Is Aussie Broadband a CSP? | Refer to Table 2 above. |
| Does or did Aussie Broadband supply the carriage services to end-users using public numbers? | Refer to Table 2 above. |
| Did Aussie Broadband provide the IPND Manager the relevant PNCD, including transaction updates, for the carriage services which it supplies or supplied, that occurred on one business day, by the end of the next business day (including all transactions relating to connections or disconnections)? | Based on Aussie Broadband’s response to the Notice, Aussie Broadband did not provide the IPND Manager relevant PNCD, including transaction updates by the end of the next business day after they occurred, on 30,014 occasions for carriage services under investigation which Aussie Broadband supplies or supplied. Specifically, between 5 November 2021 and 11 May 2022, Aussie Broadband failed to provide to the IPND Manager, within the required timeframe: <ul style="list-style-type: none"> any PNCD on 24,090 occasions, updates to PNCD pre-existing in the IPND after the PNCD changed (e.g. the customer changed their address, listing status or disconnected the service) on 5,924 occasions. The shortest period before Aussie Broadband provided required PNCD, or updated PNCD, to the IPND Manager was approximately 2 days and the longest period was approximately 186 days. |

20. Accordingly, the ACMA finds that Aussie Broadband contravened clause 4.2.1 of the IPND Code on 30,014 occasions.

Clause 4.2.16 – PNCD must be complete, accurate and up-to-date

21. Clause 4.2.16 of the IPND Code requires that each CSP must ensure that the PNCD provided to the IPND Manager is accurate, complete and up to date.

22. The ACMA has considered whether Aussie Broadband complied with clause 4.2.16 of the IPND Code by addressing the questions set out in Table 4 below.

Table 4: Assessing compliance with the IPND accuracy obligation

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| Is Aussie Broadband a CSP? | Refer to Table 2 above. |
| Did Aussie Broadband ensure that the PNCD provided to the IPND Manager for carriage services was accurate, complete and up to date? | <p>Based on Aussie Broadband's response to the Notice, it provided inaccurate PNCD to the IPND Manager on 5,924 occasions in relation to carriage services under investigation.</p> <p>Specifically, Aussie Broadband did not give updated PNCD to the IPND Manager when customers disconnected their service, changed their listing status or contact and/or address details.</p> <p>These failures occurred between 5 November 2021 and 10 May 2022.</p> <p>Aussie Broadband supplied the updated PNCD to the IPND Manager between 11 May and 24 May 2022.</p> |

23. Accordingly, the ACMA finds that Aussie Broadband contravened clause 4.2.16 of the IPND Code on 5,924 occasions.

Clause 5.1.6 – download of error information

24. Clause 5.1.6 requires that each Data Provider must download the information referred to in clauses 5.1.1, 5.1.4 and 5.1.5 [the IPND Manager must make an error file available to Data Providers in response to each file uploaded which contains errors] on the same day as being made available by the IPND Manager.
25. The ACMA has considered whether Aussie Broadband complied with clause 5.1.6 of the IPND Code by addressing the questions set out in Table 5 below.

Table 5: Assessing compliance with the IPND error file download obligations

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| Is Aussie Broadband a Data Provider? | <p>The IPND Code defines a Data Provider as a CSP or a person acting on behalf of a CSP, who is registered with the IPND Manager and has received authorisation from the IPND Manager to send PNCD to the IPND.</p> <p>Aussie Broadband is a CSP (see Table 2 above) and is a registered and authorised Data Provider with the IPND Manager and provides its own PNCD to the IPND.</p> |
| Did the IPND Manager make feedback available in response to each file uploaded which contained errors? | Yes. Each time a Data Provider carries out an upload of PNCD data to the IPND, an error file is automatically generated by the IPND, and the IPND Manager makes it available in the Data Providers download area within the IPND within hours. The ACMA has confirmed it was made available in this case. |
| Did Aussie Broadband download the error file notifications on the same business day it was made available by the IPND Manager? | <p>No. Based on information obtained from Aussie Broadband on 27 April and 6 May 2022, a technical issue with Aussie Broadband's error reporting software resulted in error files not being pushed through to it for review and action from 5 November 2021 until at least 22 April 2022.</p> <p>Aussie Broadband uploads PNCD to the IPND daily, therefore Aussie Broadband failed to download the corresponding error files on at least 168 occasions between 5 November and at least 22 April 2022.</p> |

26. Accordingly, the ACMA finds that Aussie Broadband contravened clause 5.1.6 of the IPND Code on at least 168 occasions.

Clause 5.3.1 – obtaining an extract of PNCD for reconciliation purposes

27. Clause 5.3.1 requires that, for reconciliation purposes, each Data Provider must obtain an extract of their PNCD as a full set of records or as a subset of records based on criteria agreed between the Data Provider and the IPND Manager at least once every six months.
28. The ACMA has considered whether Aussie Broadband complied with clause 5.3.1 of the IPND Code by addressing the questions set out in Table 6 below.

Table 6: Assessing compliance with the IPND reconciliation obligation

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| Is Aussie Broadband a Data Provider? | Refer to Table 5 above. |
| Did Aussie Broadband obtain an extract of their PNCD as a full set of records or as a subset of records based on criteria agreed between the Data Provider and the IPND Manager at least once every 6 months? | <p>No. Information obtained from the IPND Manager on 19 April 2022 showed that Aussie Broadband had not obtained an extract of its PNCD as a full set of records or as a subset of records since 4 February 2021. Aussie Broadband confirmed this information to be correct.</p> <p>Aussie Broadband failed to obtain an extract of its PNCD from 5 February 2021 until at least 23 April 2022 (approx. 14 months). During this time Aussie Broadband should have obtained at least two extracts of its PNCD for the purpose of undertaking reconciliations between its own data and that in the IPND.</p> |

29. Accordingly, the ACMA finds that Aussie Broadband contravened clause 5.3.1 of the IPND Code on two occasions.