

Investigation Report

Entity	Optus Mobile Pty Ltd
ACN	054 365 969
Type of entity	Carriage Service Provider
Relevant Legislation	<i>Telecommunications Act 1997</i> Industry Code (C555:2020) Integrated Public Number Database (IPND)
Date	21 November 2023

Findings

The Australian Communications and Media Authority (**ACMA**) finds that Optus Mobile Pty Ltd (**Optus**), as set out at Table 1 below, contravened the:

- *Telecommunications Act 1997 (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)	197,985
IPND Code	Clause 4.2.1	197,985

Reasons

1. The reasons for the ACMA's findings, including the key elements which establish the contraventions, is based on information obtained from Optus on 13 October 2023, its response to the preliminary findings dated 3 November 2023, and reports obtained from Telstra Ltd (in its capacity as the **IPND Manager**).

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 act on its behalf. However, the CSP carries the compliance obligations for provision of customer data to the IPND Manager, and for complying with other IPND requirements.

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.

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.
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.
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.

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 Optus 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

Is Optus a CSP?	Optus is a CSP as defined at section 87 of the Act as it supplies carriage services to the public. Accordingly, it must comply with the service provider rules that apply to it.
Does or did Optus supply the carriage services to end-users with public numbers?	Optus supplies or supplied the carriage services under investigation to end-users with public numbers under the Coles Mobile and Catch Connect brands.
Did Optus give the IPND Manager such information as the IPND Manager reasonably requires to provide and maintain the IPND in relation to the carriage services?	<p>Based on information obtained from Optus, Optus did not give the IPND Manager information it reasonably requires to provide and maintain the IPND on 197,985 occasions in connection with carriage services under investigation.</p> <p>Specifically, between 13 January 2021 and 22 September 2023, Optus failed to provide the IPND Manager any PNCD for [REDACTED] Coles Mobile and [REDACTED] Catch Connect services.</p> <p>Optus advised that the issue occurred due to an error in its third-party Data Provider's IPND processes. Specifically, a manual validation step resulted in discrepancies during the upload process causing PNCD to not be uploaded to the IPND.</p> <p>The obligation to provide customer data to the IPND under the service provider rule rests with the CSP that supplies the service.</p>

17. Accordingly, the ACMA finds that Optus contravened subsection 101(1) of the Act by it failing to comply with the service provider rule at clause 10 of Schedule 2 to the Act on **197,985** occasions.

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 Optus 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

Is Optus a CSP?	Refer to Table 2 above.
Does or did Optus supply the carriage services to end-users using public numbers?	Refer to Table 2 above.
Did Optus 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)?	<p>Based on information obtained from Optus, it did not provide the IPND Manager relevant PNCD, including transaction updates, by the end of the next business day after they occurred, on 197,985 occasions for carriage services under investigation which Optus supplies or supplied under the Coles Mobile and Catch Connect brands.</p> <p>Specifically, between 13 January 2021 and 22 September 2023, Optus failed to provide the IPND Manager any PNCD for [REDACTED] Coles Mobile and [REDACTED] Catch Connect services.</p> <p>The shortest period Optus provided required PNCD, or updated PNCD, to the IPND Manager was approximately 2 business days and the longest period was approximately 671 days.</p>

20. Accordingly, the ACMA finds that Optus contravened clause 4.2.1 of the IPND Code on **197,985** occasions.