31 January 2017

Manager, National and Community Interests
Australian Communications and Media Authority

Re: Remaking the Telecommunications Integrated Public Number Database Scheme 2007

ACCAN thanks the Australian Communications and Media Authority (ACMA) for the opportunity to contribute to its consultation on remaking the Telecommunications Integrated Public Number Database Scheme 2007 (IPND Scheme), which is due to sunset on 1 April 2017.

The IPND Scheme sets out the processes the ACMA must follow when granting authorisations allowing access to information in the IPND. It also deals with making and assessing applications for authorisation, and for revoking authorisations.

ACCAN supports the ACMA’s proposal to remake the IPND Scheme, but would like to provide some comments regarding the two key proposed changes.

**Proposed change 1**

*Allowing the ACMA to grant an authorisation to a research entity (a researcher who is a person or a research body) on an ongoing basis or for a finite period. This would be subject to the research entity meeting certain requirements, including conducting a privacy impact assessment. The current IPND Scheme only provides for an individual researcher to apply for an authorisation to access the IPND on a project-by-project basis.*

Firstly, ACCAN submits that the conditions set out for a researcher gaining consent from a customer (Consultation Paper p 7) are impractical and unnecessary. The assumption is that the primary purpose of making an authorisation in many cases is to allow access to IPND data so that researchers can contact individuals. It is already too late to ask a customer if they consent to the use of their IPND data when the data has already been used to make contact with the customer.

ACCAN further submits that if the research objectives of the party seeking authorisation do not involve making contact with customers then that research entity should not be given access to individual records and only to aggregate and de-identified data (with appropriate safeguards against re-identification, which is becoming increasingly easy in an era of ‘big data’ and improving data-matching techniques).

In 2014 ACCAN and the Australian Privacy Foundation (APF) made a submission to the Department of Communications and the Arts, supporting the broadening of access to IPND information to a wider range of researchers, but only in a limited number of cases. In the submission ACCAN and APF differentiated between Type A research – which is in the public interest and uses aggregate statistics...
(not the personal information of subscribers) – and Type B research – which involves using the IPND information to contact customers to participate in surveys.

ACCAN maintains that the controls around access to IPND information for Type B research need to remain rigorous. Allowing increased access to these researchers would likely lead to an increase in unsolicited calls. As at June 2016, 10.65 million numbers were registered on the Do Not Call Register, highlighting the large number of Australians who do not want unsolicited or marketing calls. In addition, a recent survey of 1616 Australians by Choice found that 93% of Australians find unsolicited calls annoying. Consumers have a reasonable expectation of privacy and would generally not expect their number(s) to be provided to private research companies or universities without their express informed consent.

**Proposed Change 2**

Facilitating greater industry management of access to IPND data in limited circumstances. This would be achieved by enabling the ACMA to grant a research body an authorisation to disclose de-identified IPND data (listed number and geographic information not below postcode level) to its members to conduct permitted research, provided certain requirements are met. The de-identification of IPND data reduces privacy risks.

ACCAN has concerns about the level of de-identification required by the proposed change to the IPND Scheme. The proposed ability of the ACMA to authorise research bodies to act as intermediaries is only for access by the intermediary to “de-identified” data, but still includes number(s) and address information, and therefore the information can arguably not be considered fully de-identified. Researchers are likely to have access to other information that would make the data ‘personal information’ under the Privacy Act 1988.

The proposal to limit the information to “listed number and geographic information not below postcode level” is also of concern. It assumes that the intermediary body needs access to full address information in order to assign a postcode, however ACCAN considers this could be done by the IPND Manager instead.

ACCAN would also like to note the absence of discussion in the Consultation Paper of the meaning of ‘research body/association’. The Draft Instrument, in contrast, defines ‘research representative body’ being the Association of Market and Social Research Organisations (AMSRO), the Australian Market and Social Research Society (AMSRS), or other similar body according to the listed criteria, and limits the ‘intermediary’ role to members.

ACCAN would like to point out that Note 4.2.3 of the Consultation paper refers to ‘representative body’ whereas later clauses refer to ‘research representative body’. The language used should be consistent – that being the defined term ‘research representative body’.

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ACCAN submits however that even if the definition is standardised, industry bodies should not be allowed to play this role – their primary responsibility, and accountability, is to their members, whose interests will be best served by access to IPND data. This is a clear and unavoidable conflict of interest. Any new intermediary performing the role currently filled by the ACMA must be seen to be independent. A model that may be acceptable is a body comprised of equal numbers of industry and consumer/privacy representatives, with an independent chair (with the OAIC having a role to play in any such body).

**Other Issues**

The Consultation Paper invites comment on whether limitations in the ‘intermediary’ access model should also apply to direct access via an ACMA authorisation. ACCAN can see no obvious reason for different rules or conditions to apply.

Comments are also invited on three additional issues (in Table 1 of the Consultation Paper). ACCAN submits that the first two (personnel requirements\(^4\) and internal dispute resolution processes\(^5\)) are improvements to the existing scheme, and the third (easier process for varying conditions\(^6\)) is acceptable.

Sincerely

Jeremy Riddle
Policy Officer

\(^4\) The ACMA is proposing that an additional safeguard is introduced to require authorisation-holders to ensure personnel who have access to IPND data are aware of the authorisation holder’s obligations and requirements.

\(^5\) The ACMA is proposing new requirements that clarify that authorisation-holders must have internal dispute resolution processes for customer complaints, and must inform customers that they can complain to the ACMA if they are not satisfied with the outcome.

\(^6\) Minor administrative changes.