

17 September 2020

Mr Craig Young
Managing Director
Engine Asia Pacific Pty Ltd
Level 1, 459 Collins Street
Melbourne VIC 3000

By email [REDACTED]

cc [REDACTED]

ACMA file reference ACMA2020/437-4

Dear Mr Young

**Engine Asia Pacific Pty Ltd – research authorisations under the
Telecommunications Integrated Public Number Database Scheme 2017 and the
Telecommunications Regulations 2001 (public health – Tasmanian Gambling
Prevalence Survey)**

I refer to the applications by Engine Asia Pacific Pty Ltd ACN 126 100 276 (Engine) received by the Australian Communications and Media Authority (ACMA) on 22 July 2020 for research authorisation under the:

- Telecommunications Integrated Public Number Database Scheme 2017 (the IPND Scheme), and
- Telecommunications Regulations 2001 (the Regulations).

Grant of authorisation under the IPND Scheme

I am pleased to notify you that today the ACMA granted Engine a research authorisation under subsection 4.3(4) of the IPND Scheme (relating to IPND customer data for **listed** numbers).

Noting the requirements of subsections 4.3(6) and (7) of the IPND Scheme, details of the authorisation are set out at **Attachment A**.

Compliance with relevant requirements

This authorisation is subject to the relevant requirements (as defined in the IPND Scheme). A summary of the relevant requirements is at **Attachment B**. This is reference guide only and is not intended to be exhaustive – Engine should ensure it is aware of, and understands, all relevant requirements.

Engine should be aware that a breach of a condition of authorisation is an offence under the *Telecommunications Act 1997*. The ACMA also has the power to issue a formal warning, give a remedial direction, or revoke an authorisation, in response to a breach.

Grant of authorisation under the Regulations

I am pleased to notify you that today the ACMA also granted Engine a research authorisation under the Regulations (relating to **unlisted** mobile numbers and related postcodes in the IPND).

Noting the requirements of regulations 5.12 and 5.13 of the Regulations, details of the authorisation are set out at **Attachment C**.

Compliance with relevant conditions

This authorisation is subject to the conditions set out at subdivision 5.2.3 of the Regulations. A summary of the relevant conditions is at **Attachment D**. (Again, this is reference guide only and is not intended to be exhaustive – Engine should ensure it is aware of, and understands, all relevant conditions.)

Please be aware that contravention of a condition of authorisation is an offence as outlined at regulation 5.36, and the ACMA can remove an entity from a research authorisation for breach of a condition (regulation 5.28).

Engine's sample script – clarification

The sample script in Engine's application states *The Australian Communications & Media Authority (the ACMA) maintains a database of all mobile phone numbers*.

As previously discussed, we note that the:

- ACMA oversees certain obligations in relation to the IPND but does not maintain the database itself
- IPND is maintained by Telstra Corporation Ltd (Telstra) in its capacity as IPND Manager, and
- IPND includes almost all phone numbers in use in Australia – landline, mobile, 1800 numbers etc.

It is important that accurate information is provided to survey participants. Accordingly, we ask that Engine amend its script prior to use.

Publication

In accordance with usual practice, we will publish high-level details of the authorisations on the ACMA website at <https://www.acma.gov.au/accessing-ipnd>:

- Engine's name
- the permitted research purpose (research relevant to public health)
- the duration of each authorisation, and
- month and year the authorisations were granted.

Next steps

As required under the IPND Scheme and Regulations, the ACMA will provide a copy of this notice of authorisations to Telstra, in its capacity as IPND Manager.

Engine must notify the ACMA within 10 business days of receiving from the IPND Manager the:

- listed number information under the IPND Scheme authorisation, and
- authorised unlisted mobile number information under the Regulations authorisation.

Please contact me on (03) 9963 6906 or at eve.osiowy@acma.gov.au for all notification requirements under the authorisation. You can also contact Emma Bain on (03) 9963 6929 or emma.bain@acma.gov.au if you have any questions.

Yours sincerely



Eve Osioy

Manager, Numbers Section

**Attachment A – Engine Asia Pacific Pty Ltd’s research authorisation under the
Telecommunications Integrated Public Number Database Scheme 2017**

Date of ACMA decision	17 September 2020
Kind or kinds of research to which the research authorisation applies	Research, or the compilation or analysis of statistics, relevant to public health, including epidemiological research, where the research is not conducted for a primarily commercial purpose ¹ – specifically, the Tasmanian Gambling Prevalence Survey on behalf of the Tasmanian Department of Treasury and Finance.
Fields of customer data to which the authorisation applies	For up to a maximum of 20,000 IPND records for listed telephone numbers with a directory address postcode in the range 7000-7999 inclusive which are available to a research entity under a research authorisation under the IPND Scheme: <ul style="list-style-type: none"> • the public number of the customer or business • the directory address of the customer or business • if it is known whether the relevant carriage service being supplied to the customer on the public number is to be used for a government, business, charitable or residential purpose - the relevant purpose.
Duration of the authorisation	The research authorisation: <ol style="list-style-type: none"> a. starts on the day on which the IPND Manager first supplies customer data to Engine, and b. ends on 30 April 2021, regardless of whether the IPND Manager has supplied customer data to Engine.
Additional conditions specified by the ACMA	Nil.
ACMA contact where Engine is required to notify the ACMA under the IPND Scheme	Eve Osiowy, Manager, Numbers Section Tel: (03) 9963 6906 Email: eve.osiowy@acma.gov.au cc ipnd@acma.gov.au
ACMA contact for complainants/internal disputes procedures	ACMA Customer Service Centre Telephone: 1300 850 115 Email: ipnd@acma.gov.au

¹ Research is defined in section 1.4 of the IPND Scheme (which refers to the definition in the Telecommunications (Integrated Public Number Database – Permitted Research Purposes) Instrument 2017 – see subclause 6(a)).

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

Telecommunications Act 1997 – Part 13

Section	Criteria
299A	<p>(2) If:</p> <p>(a) information or a document is disclosed to a person as permitted by subsection 285(1A); and</p> <p>(b) the disclosure is for a purpose covered by subparagraph 285(1A)(c)(iv)*;</p> <p>then:</p> <p>(c) during the period the person holds an authorisation in force under the integrated public number database scheme in relation to the information or document—the person must not disclose or use the information or document except for that purpose; and</p> <p>(d) if the person does not hold such an authorisation—the person must not disclose or use the information or document.</p> <p>(3) If information or a document is disclosed to a person for a particular purpose as permitted by subsection (2) or this subsection, the person must not disclose or use the information or document except for that purpose.</p> <p><i>*In summary, 285(1A)(c)(iv) provides that the prohibition on the disclosure of certain information under sections 276 and 277 of the Act does not prohibit disclosure of information from the IPND for the purpose of permitted research.</i></p>

Conditions specified by the Minister in the Telecommunications (Integrated Public Number Database – Conditions for Authorisations) Determination 2017

Section	Criteria
6(1)	The holder of an authorisation is prohibited from transferring protected information to someone who is in a foreign country (except in certain circumstances). Note: <i>protected information</i> is defined as information from the IPND (except if it relates to an unlisted number) disclosed for the purpose of conducting permitted research (see subsection 285(1A), subparagraph 285(1A)(c)(iv)).
6(2)	The holder of an authorisation is required to remain legally responsible for any use or disclosure of protected information by the recipient that is inconsistent with the Australian Privacy Principles (APPs) [set out in the Privacy Act 1988].
7	The holder of an authorisation must take reasonable steps to protect and secure the protected information, and any personal information related to the protected information, and any personal information related to the protected information, that it holds from: (a) misuse or loss; and (b) unauthorised access, modification, use or disclosure.
8	The holder of an authorisation must, as soon as practicable after it becomes aware of a substantive or systemic breach of security that could reasonably be regarded as having an adverse impact on the integrity and confidentiality of the protected information: (a) notify the ACMA and the IPND Manager; and (b) take reasonable steps to minimise the effects of the breach.
9	The holder of an authorisation must, as soon as practicable after becoming aware that a person to whom the holder has disclosed protected information has contravened any legal restrictions governing the person's ability to use or disclose protected information, notify the ACMA and the IPND Manager.
10	The holder of an authorisation must securely destroy protected information within 10 working days of: (a) the protected information no longer being required for the purpose for which it was disclosed to the holder; or (b) the authorisation ceasing or being revoked.
12(1)	The holder of a research authorisation is required to make a contractual arrangement to ensure that any contractor to whom the holder discloses protected information neither uses nor discloses the information except for a purpose covered by subparagraph 285(1A)(c)(iv) of the Act.
12(2)	The holder of a research authorisation is required to ensure that any database that the holder produces using protected information: (a) does not enable a person who only knows the public number of an end-user of a carriage service to readily identify the end-user's name and/or address; and (b) subject to subsection 12(3), does not enable a person who only knows the whole or a part of the address of an end-user of a carriage service to readily identify the end-user's name and/or public number.

Section	Criteria
12(3)	The holder of a research authorisation may produce a database of a kind mentioned in subclause (2) that enables a person to search by postcode to find a list of public numbers, and the customer data associated with those numbers, from within the postcode.
12(4)	The holder of a research authorisation may use only the directory finding name, directory address and public number fields of the integrated public number database to contact customers.
12(5)	The holder of a research authorisation is prohibited from selling or providing customer data to any person for any purpose unless this is authorised or required by or under law.

Conditions in the Telecommunications Integrated Public Number Database 2017

NB: conditions relating to research representative bodies have been omitted as these do not apply to Engine.

Section	Criteria
4.5(2)	The research entity: (a) must make arrangements with the IPND Manager for the supply of the fields of customer data to which the research authorisation applies as soon as practicable after receiving written confirmation from the ACMA under subsection 4.3(8) of a decision to grant an authorisation to access the IPND; and (b) must notify the ACMA in writing of the date on which the entity first receives the customer data within 10 business days after the start of the authorisation.
4.5(3)	The research entity must not disclose the customer data to any person other than: (a) the ACMA; or (b) the entity's personnel; or (c) [research representative body]; unless the disclosure is authorised or required by or under law.
4.5(5)	The research entity must, for at least the duration of the research authorisation, be one of the following: (a) an organisation within the meaning of the Privacy Act; (b) an entity whose name is entered in the register of small business operators who have chosen to be treated as organisations within the meaning of the Privacy Act, which is kept by the Information Commissioner in accordance with section 6EA of that Act.
4.5(7)	The research entity: (a) must not use the customer data for any purpose other than conducting research of a kind to which the research authorisation applies; and (b) must not add other information to the customer data without the express consent of the person to whom the information relates; and (c) must make the customer data secure so that only its personnel and (if it is a research representative body) its members have access to the customer data for the purposes of conducting the research.
4.5(9)	If the research entity contacts a customer, using the customer data, for the purposes of conducting the research, the entity must: (a) tell the customer: (i) the name of the person or organisation conducting the research; and (ii) the contact details of the person or organisation, if requested by the customer; and (iii) the purpose of the research; and (iv) that the person or organisation has collected the customer data relating to the customer and, if requested by the customer, the circumstances of that collection; and (v) how the person or organisation proposes to use the customer data and any other information relating to the customer in the research; and (vi) how the customer can access the personal information about the customer held by the person or organisation, if requested by the customer; and (b) ask the customer if the customer gives consent: (i) for the use of the customer data and any other information relating to the customer in the research; and (ii) to having the customer's details identified in the research; and (c) tell the customer that the customer may withdraw any consent so given at any time; and (d) give the customer any other information that is required by law (for example, under the Privacy Act 1988); and (e) comply with all applicable laws relating to unsolicited contact with another person.

Section	Criteria
4.5(11)	If a customer informs the research entity that the customer wants a listed number to become an unlisted number, the entity must advise the customer to contact the customer's carriage service provider.
4.5(12)	If the IPND Manager notifies the research entity that a listed number has become an unlisted number in the IPND: (a) the entity must not, after being notified, use any of the customer data to contact the customer who has the number; and (b) the entity must, within 10 business days after being notified, destroy securely any customer data or document that it holds that it is able to identify as being associated with that unlisted number; and (c) [relates to research representative bodies].
4.5(14)	If a customer does not consent, or withdraws consent, to the use of the customer data or any other information relating to the customer in the research, the research entity: (a) must not continue to use any of the customer data or other information that can be identified as being associated with the customer; and (b) must not keep any of the customer data or other information that can be identified as being associated with the customer.
4.5(16)	The research entity must have internal dispute resolution procedures that will enable it to deal with inquiries or complaints from any customer about its use or disclosure of the customer data relating to the customer.
4.5(17)	If a customer makes a complaint to the research entity about the use or disclosure of the customer data or other information relating to the customer, the entity must: (a) inform the customer that if the customer is dissatisfied with the way in which the complaint is handled, the customer may make a complaint to: (i) in the case where the customer is an individual whose complaint to the entity involves an act or practice that may be an interference with the privacy of the individual – the Information Commissioner; and (ii) in any other case – the ACMA; and (b) give the customer information about how to contact the Information Commissioner or the ACMA; and (c) provide reasonable assistance to the Information Commissioner or the ACMA in relation to any such complaint if requested by the Information Commissioner or the ACMA to do so.
4.5(19)	If geographic disaggregation of the research findings is to occur using the customer data, the research entity must not carry out the disaggregation below the level of a postcode included in a directory address of a customer or a customer's business.
4.5(21)	If the IPND Manager notifies the research entity of an update to the customer data: (a) the entity must, within 2 business days after being notified, update the customer data in its possession that can be identified as being associated with the customer; and (b) [relates to research representative bodies].
4.5(23)	If a customer advises the research entity that the customer data or any other information relating to the customer held by the entity is incorrect: (a) the entity must, within 2 business days after being advised: (i) correct the information in its possession that can be identified as being associated with the customer; and (ii) tell the customer to contact the customer's carriage service provider to ensure that the information is correctly entered into the IPND; and (b) [relates to research representative bodies].
4.5(25)	The research entity must have technical systems to receive customer data in accordance with any technical method specified by the IPND Manager.
4.5(26)	The research entity must not use a directory address that is a suppressed address entry. Note: suppressed address entry means an entry in customer data that indicates that a customer has requested that the customer's directory address be flagged as suppressed.
4.5(28)	If: (a) the fields of customer data to which the research authorisation applies do not include the name of a customer or a customer's business; and (b) the research entity becomes aware that other information has been added to the customer data in breach of the relevant requirement in paragraph (7)(b) of the IPND Scheme; and (c) as a result of the breach, a customer or a customer's business is identified by name as being the customer or the customer's business to which the customer data relates; the entity must, as soon as practicable: (d) destroy the customer data and the other information that has been added to the customer data; or (e) take other steps to ensure that the customer or the customer's business is no longer identified in the way mentioned in paragraph (c).
4.5(32)	Any other condition specified by the ACMA.
4.5(33)	The research entity must comply with all relevant requirements.

Section	Criteria
	<p><i>Relevant requirements</i> is defined in section 1.4 of the IPND Scheme as:</p> <ul style="list-style-type: none"> (a) the requirements of the [Telecommunications] Act, and of any legislative instruments made under the Act (including this scheme), that apply to the holder; (b) any conditions of the authorisation. <p>The conditions of the authorisation, if granted, are set out in section 4.5 of the IPND Scheme, and are as follows:</p> <ul style="list-style-type: none"> (a) any applicable conditions specified by the Minister in a legislative instrument under section 295P of the Act (i.e. the Conditions for Authorisation Instrument; (b) the applicable conditions specified in this scheme; and <p>any applicable conditions specified by the ACMA under a provision of this scheme.</p>
4.5(34)	<p>The research entity must take all reasonable steps to ensure that any person who is one of its personnel:</p> <ul style="list-style-type: none"> (a) is made aware of the entity's obligations to meet the relevant requirements; and (b) cooperates with the entity in meeting the relevant requirements; and (c) notifies the entity in writing as soon as practicable after becoming aware that the person has done, or omitted to do, something that would have breached a relevant requirement if the person had been a research entity.
4.5(36)	<p>If the research entity becomes aware that:</p> <ul style="list-style-type: none"> (a) the entity has breached any relevant requirement; or (b) a person who is one of its personnel has done, or omitted to do, something that would have breached a relevant requirement if the person had been a research entity; or (c) [relates to research representative bodies]; <p>the entity must, as soon as practicable:</p> <ul style="list-style-type: none"> (d) notify the ACMA in writing of the issue; and (e) take all reasonable steps to minimise the effects of the issue.

**Attachment C – Engine Asia Pacific Pty Ltd’s research authorisation under the
Telecommunications Regulations 2001**

Date of ACMA decision	17 September 2020
Entity/ies covered by the authorisation	Engine Asia Pacific Pty Ltd ACN 126 100 276
Duration of authorisation	Commencing on the date Telstra Corporation Ltd (the IPND Manager) first discloses the authorised unlisted mobile number information to Engine, and ending on 30 April 2021, regardless of whether the IPND Manager has disclosed authorised unlisted mobile number information to Engine.
Permitted research	The research is relevant to public health, including epidemiological research, conducted for another person or body which is not conducted for a primarily commercial purpose of the other person or body ² – specifically, the Tasmanian Gambling Prevalence Survey on behalf of the Tasmanian Department of Treasury and Finance.
Authorised unlisted mobile number information	Up to a maximum of 140,000 unlisted mobile phone numbers and associated postcodes within the range 7000-7999 inclusive in the Integrated Public Number Database not indicated as used for government, business, or charitable purposes
Additional conditions specified by the ACMA (sub-regulation 5.12(4))	Nil.
ACMA contact where Engine is required to notify the ACMA under the Regulations	Eve Osiowy Manager, Numbers Section Tel: (03) 9963 6906 Email: eve.osiowy@acma.gov.au cc jpnd@acma.gov.au
ACMA contact to be provided to complainants and in internal disputes procedures	ACMA Customer Service Centre Telephone: 1300 850 115 Email: jpnd@acma.gov.au

² Research is defined at regulation 1.7A of the Regulations.

Attachment D – 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**. Also, references to 'other **entities** under same authorisation' are not applicable in Engine's case as it is the sole research entity under the authorisation.

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 of 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 information the entity has relating to the person • must not use the mobile information relating to the person • as soon as reasonably practicable:

Reg	Subject	Summary (see Regulations for full text)
		<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.
5.30	No use or disclosure of mobile information after authorisation ends, or entity is removed from	<p>When a research authorisation ends, or if an entity is removed from an authorisation by the ACMA, the entity must:</p> <ul style="list-style-type: none"> • not record or use the mobile information • not disclose the mobile information, unless authorised, or required to do so by law or to the ACMA at the ACMA's request

Reg	Subject	Summary (see Regulations for full text)
	authorisation by ACMA	<ul style="list-style-type: none"> take all reasonable steps to destroy the mobile information within 10 business days after the authorisation ends or the entity is removed from the authorisation.
5.31		<p>If entity has research information relating to a contacted person and the authorisation ends, or entity is removed <u>voluntarily</u> from the authorisation, the entity must not</p> <ul style="list-style-type: none"> make a record of, or use, the information, or disclose the information, <p>unless the information is de-identified and does not include the person's public number.</p> <p>If entity has research information relating to a contacted person and entity is removed from the authorisation by the ACMA for breach of condition of authorisation, the entity must:</p> <ul style="list-style-type: none"> not make a record of, or use, the information not disclose the information unless authorised, or required to do so, by or under any law that applies to the entity must take all reasonable steps to destroy the information within 10 business days after the entity is removed from the authorisation.