

# Investigation Report

<b>Entity</b>	Telstra Corporation Limited (Telstra)
<b>ACN</b>	051 775 556
<b>Type of entity</b>	Carriage Service Provider, and Data Provider to the Integrated Public Number Database (IPND)
<b>Relevant Legislation</b>	<i>Telecommunications Act 1997</i> Industry Code (C555:2020) Integrated Public Number Database (IPND)
<b>Date</b>	1 August 2023

## Findings

The Australian Communications and Media Authority (**ACMA**) finds that Telstra has, 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	Relevant Period
Act	Subsection 101(1)	19,206 <sup>1</sup> (7,102 + 7,400 + 4,704)	October 2010 – August 2022
Act	Subsection 121(2) Direction to Comply	Multiple occasions	11 November 2021 – December 2022
IPND Code	Clause 4.2.1	7,400	20 March 2020 – August 2022
IPND Code	Clause 4.2.16	7,102	August 2020 – August 2022
IPND Code	Clause 6.2.3	At least 207 (175 + 32) occasions	21 October 2021 – December 2022

## Reasons

1. The ACMA's findings, including the key elements which establish the contraventions, is based on information provided by Telstra on 16 and 30 September 2022, 9 December 2022, 1 February 2023, 21 and 28 April 2023, and 13 June 2023.

<sup>1</sup> There are more contraventions of the service provider rule at subsection 101(1) of the Act than the IPND Code because:

- 4,704 contraventions occurred when the 2017 iteration of the IPND Code was in place and the ACMA has not made findings under the 2017 Code, and
- failure to provide customer data to customers under clause 6.2.3 of the IPND Code (at least 207 contraventions) does not contravene the service provider rule.

## Background

2. The IPND is a centralised database of public numbers<sup>2</sup> 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. Telstra is also a carriage service provider (CSP) within the meaning of section 87 of the Act. Telstra is referred to in this report as 'Telstra' in its capacity as a CSP, and as 'the IPND Manager' in its capacity as manager of the IPND.
4. 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.
5. 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.
6. 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.
7. 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.
8. The IPND Manager's Technical Requirements are referenced in the IPND Code, and the associated IPND Data Guideline (G619:2017).
9. 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).
10. The data is defined in the IPND Code as public number customer data, or PNCD, and that term is used in this report.
11. 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.

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<sup>2</sup> Public numbers are numbers specified in the Telecommunications Numbering Plan 2015 (and predecessor instruments) and includes most numbers such as geographic, freephone, local rate, premium rate, and international.

12. 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.
13. On 16 and 30 September 2022 respectively, Telstra notified the ACMA that it had failed to provide:
  - > the IPND Manager with accurate PNCD for 7,104 services; and
  - > certain Telstra customers with a copy of their PNCD within the requisite timeframes, after making such a request.
14. The ACMA commenced an investigation into Telstra’s compliance with the relevant provisions of the IPND Code and the Act on 10 November 2022, and gave it a notice under section 521 of the Act. Telstra responded to the notice on 9 December 2022.
15. Telstra notified the ACMA of further failures to provide accurate PNCD to the IPND Manager on 1 February 2023. Telstra responded to a second notice given to it under section 521 of the Act on 21 April 2023, providing information that led to the ACMA revising the number of contraventions.

**Relevant provisions of the Act**

16. 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.
17. Subsection 98(1) of the Act provides that the service provider rules include those set out in Schedule 2 to the Act.
18. Clause 1 of Schedule 2 to the Act provides that service providers must comply with the Act.
19. 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**

20. The ACMA has considered whether Telstra 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 Telstra a CSP?	<p>Yes.</p> <p>Telstra 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.</p>
Does or did Telstra supply the carriage services to end-users with public numbers?	<p>Yes.</p> <p>Telstra supplies or supplied the carriage services that inform this investigation to end-users with public numbers.</p>
Did Telstra 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>No.</p> <p>Between October 2010 and August 2022, Telstra failed to provide accurate PNCD to the IPND Manager, or failed to provide updated PNCD to the IPND Manager after the PNCD changed, for 19,206 fixed and mobile services.</p> <p>The IPND records for the 19,206 services either had an incorrect connection status, listing status, customer name and/or address or a combination of inaccuracies.</p>

21. Accordingly, the ACMA finds that Telstra contravened subsection 101(1) of the Act on 19,206 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*

22. 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.

23. The ACMA has considered whether Telstra 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 obligation to provide updated PNCD to the IPND**

Is Telstra a CSP?	Yes. Refer to Table 2 above.
Does or did Telstra supply carriage services to end-users using a public number?	Yes. Refer to Table 2 above.
Did Telstra 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)?	No.  Telstra failed to provide updated PNCD to the IPND Manager after the PNCD changed (e.g., the customer changed their name, address, listing status or disconnected the service) by the end of the next business day on 7,400 occasions in relation to carriage services under investigation.  These failures occurred between 20 March 2020 and August 2022 when the IPND Code was in force. The shortest period between when it was required to update PNCD to the IPND Manager and when it did was approximately one month and the longest period was approximately 2.5 years.

24. Accordingly, the ACMA finds that Telstra contravened clause 4.2.1 of the IPND Code on 7,400 occasions.

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

25. 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.

26. The ACMA has considered whether Telstra 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**

Is Telstra a CSP?	Yes - refer to Table 2 above.
Did Telstra ensure that the PNCD provided to the IPND Manager for carriage services was accurate, complete and up to date?	No. Telstra failed to provide accurate PNCD to the IPND Manager on 7,102 occasions in relation to carriage services under investigation, as set out in submissions from Telstra.  These failures occurred between August 2020 and August 2022.

27. Accordingly, the ACMA finds that Telstra contravened clause 4.2.16 of the IPND Code on 7,102 occasions.

*Clause 6.2.3 – provision of PNCD to a Customer*

28. Clause 6.2.3 of the IPND Code states:

*The CSP must respond to their Customer’s request for a copy of their PNCD by supplying the requested PNCD within 20 Business Days.*

29. The ACMA has considered whether Telstra complied with clause 6.2.3 of the IPND Code by addressing the questions set out in Table 3 below.

**Table 5: Assessing compliance with the Customer PNCD obligation**

Is Telstra a CSP?	Yes - refer to Table 2 above.
Did Telstra Customers request a copy of their PNCD from Telstra?	Yes. Based on information provided by Telstra on 30 September 2022 and 9 December 2022, 647 (443 + 204) Telstra Customers requested a copy of their PNCD between 21 October 2021 and 29 November 2022.
Did Telstra supply the requested PNCD to the Customer within 20 Business Days?	Telstra failed to supply the requested PNCD to its Customers within 20 Business Days on at least 207 (175 + 32) occasions, as set out in submissions from Telstra dated 30 September 2022 and 9 December 2022.  These failures occurred between 21 October 2021 and December 2022.  Telstra advised it would also have failed to respond to some Customer requests for PNCD within 20 Business Days prior to 21 October 2021, but it was unable to quantify the extent of the non-compliance.

30. Accordingly, the ACMA finds that Telstra contravened clause 6.2.3 of the IPND Code on at least 207 occasions.

**Compliance with the Act – direction to comply with IPND Code**

31. On 11 November 2021, the ACMA directed Telstra to comply with the IPND Code, under subsection 121(1) of the Act (the Direction). Subsection 121(2) of the Act requires a person to comply with a direction under subsection 121(1).
32. As set out above, the ACMA finds that Telstra has not complied with the IPND Code on multiple occasions, with some of those contraventions occurring after 11 November 2021, the date on which the ACMA directed Telstra to comply with the IPND Code.
33. Accordingly, the ACMA finds that Telstra has contravened subsection 121(2) of the Act on **multiple occasions** by failing to comply with the Direction.