



Review of the Integrated Public Number Database

Submission by the Australian Communications Consumer Action Network to the Department of Communications

5 June 2015

About ACCAN

The Australian Communications Consumer Action Network (ACCAN) is the peak body that represents all consumers on communications issues including telecommunications, broadband and emerging new services. ACCAN provides a strong unified voice to industry and government as consumers work towards availability, accessibility and affordability of communications services for all Australians.

Consumers need ACCAN to promote better consumer protection outcomes ensuring speedy responses to complaints and issues. ACCAN aims to empower consumers so that they are well informed and can make good choices about products and services. As a peak body, ACCAN will represent the views of its broad and diverse membership base to policy makers, government and industry to get better outcomes for all communications consumers.

Contact

Katerina Pavlidis
Grants and Research Officer

Suite 402, Level 4
55 Mountain Street
Ultimo NSW, 2007
Email: info@accan.org.au
Phone: (02) 9288 4000
Fax: (02) 9288 4019
TTY: 9281 5322

Introduction

ACCAN thanks the Department of Communications for the opportunity to provide feedback on its Report, *Review of the Integrated Public Number Database* (the Report). The structure of ACCAN's submission sets out the Report's 9 recommendations and provides comments under each recommendation. ACCAN's own recommendations are then consolidated at the end of this submission.

Recommendation 1

The quality and accuracy of data in the IPND should be improved by:

- *Enhancing the existing feedback processes between the IPND manager, data providers and data users including by exploring improved automated processes and ensuring changes are made in a timely way*
- *Industry working to improve the quality of information in the next review of the IPND Code (note – such as by requiring that all data providers use validation software)*

ACCAN understands that improving the quality and accuracy of data in the IPND is one of the key reasons for undertaking this long-running review of the IPND. As such, ACCAN supports recommendation 1 and provides more specific comments on improving the quality and accuracy of the IPND data in its comments on recommendations 2 and 3.

Recommendation 2

The regulatory arrangements should be amended to ensure subscribers can:

- *Be provided with the information in the IPND relating to themselves*
- *Flag incorrect information for action by CSPs in a specified timeframe*

ACCAN endorses recommendation 2 and believes that subscribers should be able to access the information in the IPND relating to them, as well as flag incorrect information, in a straightforward and timely way. In order for this to occur, ACCAN recommends amending the Telecommunications Act to ensure there is a clear obligation for a Carriage Service Provider (CSP) to provide their subscribers with access to their IPND entries.

The *Privacy Act (1988)* also contains provisions enabling individuals to access information about themselves that is held by an APP entity.¹ As both the IPND Manager and the majority of CSPs (where the annual turnover is \$3 million or more) are considered APP entities, subscribers have a right to access their IPND entry from *both* the IPND Manager and their CSP. It is particularly important that this right is upheld, not only because it is a legal obligation of the IPND Manager and CSP, but also because the entry the CSP provides to the IPND Manager and the entry the IPND Manager inputs into its database, could in fact be inadvertently different.

¹ http://www.comlaw.gov.au/Details/C2015C00089/Html/Text#_Toc414890137 (Schedule 1, Part 5, s. 12.1)

Considering that one of the key shortcomings of the IPND has been the inaccuracy of many of its entries², it is crucial that subscribers have the ability to flag incorrect information for action by CSPs in a specified timeframe. The Communications Alliance's *Integrated Public Number Database (IPND) Industry Code (C555:2008)*, stipulates that "The Data Provider must supply to the IPND Manager, all PNCD updates, that occur on one Business Day, by the next Business Day..." (cl. 5.19) and that "The IPND Manager must provide the information referred to in Clause 5.22 within a reasonable time-frame, not exceeding 15 Business Days" (cl. 5.23).³ In other words, Data Providers, such as CSPs, must provide updated or new customer details to the IPND Manager within one business day of receiving those details, and the IPND Manager must then provide the CSP with the updated records within 15 business days (3 weeks).⁴ It is unclear whether this timeframe is consistently adhered to by the IPND Manager and CSPs. On this basis, ACCAN recommends that the average timeframes for updating IPND entries and notifying the CSPs of the updated entry are published in the ACMA's annual Communications Report. This will ensure that the processes to update IPND entries are more transparent, and it will also provide greater evidence on whether the IPND Manager and CSPs are complying with the IPND Code.

Recommendation 3

In order to raise awareness of the IPND, CSPs should:

- *Alert their subscribers of their IPND information*
- *Advise subscribers regularly of the importance of providing correct information*

ACCAN supports recommendation 3. On the basis of ACCAN's recommendation, outlined above, that CSPs should be provided with the IPND record relating to their subscriber(s) within a timeframe of 15 working days, ACCAN believes that a subscriber should subsequently be alerted of their IPND information within a four week timeframe of that subscriber either flagging information to be updated or requesting access to their IPND entry. This allows 15 business days (3 weeks) for the IPND Manager to provide the CSP with the updated entry, and an additional week for the CSP to then provide that update to the subscriber who requested it. This timeframe would also be consistent with the *Privacy Act (1988)* which stipulates that consumers should be notified of any information an organisation holds about that consumer, within 30 days after the request for access is made.⁵

In its 2011 submission to the then Department of Broadband, Communications and the Digital Economy's Review of the IPND, ACCAN recommended that the name of the IPND be changed to become more consumer-friendly, memorable and descriptive, such as the National Phone Number Registry. ACCAN continues to support this recommendation and believes it will aid CSPs to communicate to subscribers the importance of providing correct information. This is because, if the

² The IPND accuracy study, conducted in 2012, found that 14 per cent of entries were either or moderate or low usability: http://www.communications.gov.au/_data/assets/pdf_file/0008/244826/IPND_Review_Report.pdf (p. 78)

³ http://www.commsalliance.com.au/_data/assets/pdf_file/0011/1334/C555_2008.pdf (p. 18)

⁴ Furthermore, the Report refers to the Communications Alliance Code and points out that updated information should be available to emergency services and law enforcement agencies within a matter of hours (http://www.communications.gov.au/_data/assets/pdf_file/0008/244826/IPND_Review_Report.pdf, p. 4). Assuming that an update to IPND entries does occur this quickly, it is reasonable to expect that a CSP should receive this information from the IPND Manager within 15 business days (3 weeks).

⁵ http://www.comlaw.gov.au/Details/C2015C00089/Html/Text#_Toc414890137 (Schedule 1, part 5, s. 12.4 (a) (i)).

IPND has a more intuitive and self-descriptive name, consumers are more likely to understand its purpose immediately, without needing to read through reams of information to understand the IPND.

Recommendation 4

The range of users able to apply for access to IPND information (including anonymised information about unlisted numbers) should be broadened to include a wider range of researchers – for instance, the Australian Bureau of Statistics (ABS), NBN Co and others subject to a case by case privacy impact assessment and public interest test.

As noted in the joint ACCAN and Australian Privacy Foundation (APF) submission to the Department of Communications in July 2014, ACCAN supports the broadening of access to IPND information to a wider range of researchers only in a limited number of cases. In its 2014 submission, ACCAN and APF differentiated between Type A research – which is in the public interest and uses aggregate statistics (not the personal particulars of subscribers) – and Type B research – which involves accessing the information in the IPND to contact subscribers inviting them to participate in surveys. Organisations conducting both of these types of research would be classified as ‘non-critical users’ by the Department of Communications.⁶ On the other hand, ‘critical users’ are Emergency Call Services, national security and law enforcement agencies and the telephone based emergency warning system.⁷

ACCAN does not endorse access to information in the IPND by Type B researchers because it is likely to lead to an increase in unsolicited calls. Nine million Australians have opted to be included in the Do Not Call Register, highlighting the large number of Australians who do not want unsolicited or marketing calls⁸. Furthermore, consumers have a reasonable expectation of privacy and would, generally, not expect their mobile numbers or landlines to be provided to private research companies or universities without their definite and informed consent. After all, the IPND is largely marketed as a database which is a “critical source of information for emergency and law enforcement purposes,”⁹ and not as a valuable resource for private research companies.

Recommendation 5

The ACMA should be able to approve ongoing or periodic access for an applicant, provided that the ACMA regularly reviews access and that a privacy impact assessment is completed.

ACCAN supports the recommendation that the ACMA approves ongoing or periodic access for an applicant and is pleased to see that applicants are required to conduct privacy impact assessments (PIAs). However, ACCAN believes that in addition to conducting a PIA, the ACMA should work closely

⁶ ACCAN understands that, by choosing to have an unlisted or ‘silent number’, subscribers are able to prevent the disclosure of their information to non-critical users. While this provides some control over the disclosure of their personal information, ACCAN believes that providing the details of ‘listed’ subscribers to Type B researchers is a step too far.

⁷ http://www.communications.gov.au/_data/assets/pdf_file/0008/244826/IPND_Review_Report.pdf, p. 9

⁸ ACCAN notes that the *Review of the Integrated Public Number Database, April 2015* mentions that numbers remain on the Do Not Call Register for a limited time period – eight years (http://www.communications.gov.au/_data/assets/pdf_file/0008/244826/IPND_Review_Report.pdf, p. 46). This is incorrect because as of March 2015, numbers on the Do Not Call Register remain on the register indefinitely.

⁹ <http://www.acma.gov.au/Industry/Telco/Numbering/IPND/integrated-public-number-database-numbering-i-acma>

with the Information/Privacy Commissioner to ensure that the applicant passes a public interest test, as mentioned in the Department's recommendation 4. This is particularly important if Type B researchers apply for access because these researchers can potentially include private organisations conducting research for their own objectives. Furthermore, in devising a public interest test, the ACMA should conduct consultations with consumer groups, privacy groups, legal professionals and other government agencies to determine a 'public interest' threshold.

Recommendation 6

The ACMA should be able to provide electronic public number directories to display unlimited numbers of entries from the IPND if appropriate 'anti-scraping' measures are in place.

ACCAN refers to the APF's comments on this recommendation, and agrees that the current regime should not be weakened until there is authoritative, independent and publicly-accessible advice regarding the effectiveness of anti-scraping measures.

Recommendation 7

The ACMA should publish information about applications and decisions made under the IPND Scheme.

ACCAN supports the requirement for the ACMA to publish information about applications and decisions made under the IPND Scheme. ACCAN believes that decisions should be published on the ACMA's website that is dedicated to the IPND (<http://www.acma.gov.au/Industry/Telco/Numbering/IPND>) and in the ACMA's annual Communications Report. The following information should be included:

- The organisations that applied for access
- The outcome of the application
- The rationale for granting or not granting access to the IPND.

Ensuring that this information appears both on the ACMA's website and in its annual report will help to make the information readily available and accessible to consumers who are interested in the issues relating to the IPND.

Recommendation 8

In order to improve the transparency of the management of the IPND, Telstra should make available:

- *The measures it takes to separate its role as part-owner of the publisher of the White Pages and the manager of the IPND*
- *Its standard form of agreement with data users*
- *Annual audited financial reports for the IPND*

ACCAN endorses recommendation 8 and believes that the IPND would be more transparent if Telstra openly publishes the information recommended above. ACCAN also notes that there has been much

debate about the potential conflict of interest inherent in Telstra managing the IPND as well as being a part owner of Sensis, the leading telephone directory publisher in Australia.¹⁰ On this basis (and in the context of broader reviews of Australian competition laws and policies, such as the Harper Review), ACCAN recommends that the next IPND review to take place in the medium term, as outlined in recommendation 9, should review this conflict and assess the possibility of opening up the IPND to competitive tender to entities without a conflict of interest. As the APF has noted, the management of a number of telecommunication databases (such as the Australian Do Not Call register and dot.au domain space register) is undertaken competitively. Therefore, assessing the competitiveness of the management of the IPND would be in line with current practices.

Recommendation 9

The current IPND should be retained for the medium term and the need for a new system should be investigated again after the completion of the Department's Review of the Triple Zero operator and the implementation of the Triple Zero contact arrangements from 2016.

We welcome the Review's conclusion that the IPND should be retained for the medium term – and in particular consideration of moving to a dynamic system should be deferred – at least until after the completion of the Triple Zero review.

ACCAN's Recommendations

1. That the Telecommunications Act is amended to ensure there is a clear obligation for a Carriage Service Provider (CSP) to provide their subscribers access to their IPND entries.
2. That the IPND Manager and CSPs uphold their obligations under the *Privacy Act (1988)* to allow subscribers to access their IPND entry directly from both the IPND Manager and their CSP.
3. That the average timeframes for updating IPND entries and notifying the CSPs of the updated entry are published in the ACMA's annual Communications Report. This will ensure that the processes to update IPND entries are more transparent, and will also provide greater evidence on whether the IPND Manager and CSPs are complying with the IPND Code.
4. That a subscriber is alerted of their IPND information within a four week timeframe of that subscriber either flagging information to be updated or requesting access to their IPND entry.
5. That the name of the IPND be changed to become more consumer-friendly, memorable and descriptive.
6. That in addition to conducting a PIA, the ACMA should work closely with the Information/Privacy Commissioner to ensure that the applicant passes a public interest test.

¹⁰ http://www.communications.gov.au/_data/assets/pdf_file/0008/244826/IPND_Review_Report.pdf, p. 57

7. That Type B researchers are excluded from accessing IPND entries.
8. In devising a public interest test, the ACMA should conduct consultations with consumer groups, privacy groups, legal professionals and other government agencies to determine the ‘public interest’.
9. That decisions on granting access to organisations to IPND entries are published on the ACMA’s [website](#) that is dedicated to the IPND and in the ACMA’s annual report
10. That the next IPND review to take place in the medium term, as outlined in recommendation 9, should review Telstra’s conflict of interest as the IPND Manager and assess the possibility of opening up the IPND to competitive tender.