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Division 12 and Internet Activity Record Keeping Rule (RKR) Review

The Australian Communications Consumer Action Network (ACCAN) thanks the ACCC for the opportunity to comment on the Division 12 and Internet Activity Record Keeping Rule (RKR) review. ACCAN is Australia's peak communications consumer organisation representing individuals, small businesses and not-for-profit groups as consumers of communications products and services.

The information obtained through Division 12 and the Internet Activity Record Keeping Rule (RKR) is valuable to ACCAN. ACCAN regularly uses and relies on the Internet Activity Report as well as the annual Communications Market Report to inform ACCAN's policy positions and advocacy work. ACCAN has responded to the questions asked in the consultation paper where applicable.

Do you have any comments about the proposed changes to the RKR's outlined in this document? In particular about:

a) the list of respondents

The ACCC have proposed the addition of Vocus Group as a respondent for internet services information and to include IPSTAR and SkyMesh as respondents for non-NBN fixed services information. The proposal to include Vocus is based on the fact that they are the fourth largest purchaser for general internet and standard data services at an aggregate level and across all technologies except satellite. ACCAN supports the inclusion of Vocus as it will ensure the information collected will be more reflective of the current market. IPSTAR and Sky Mesh already respond to the RKR for NBN services information, thus it seems reasonable to request information based on non-NBN services as well.

b) any of the proposed changes to the categories of reporting requirements

Generally, ACCAN is supportive of many of the proposals mentioned in the consultation paper. It is sensible to remove rules which create repetition in the information required, or for information which

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is publicly available. Additionally, there is support for including machine to machine (M2M) and home wireless services, as well as the disaggregation amongst higher speed tiers. These services are becoming increasingly popular, so it is appropriate that the ACCC begin to monitor the market for these products.

ACCAN does not support the proposal to remove the reporting requirements for fixed-line voice services. As ACCAN understands, the purpose of collecting this information is so that the ACCC can monitor competition and market developments and inform regulatory decisions. Whilst ACCAN acknowledges that the demand for this service has been decreasing, we believe it continues to represent a segment of the telecommunications market which still requires monitoring.

As of 2019:

- There were 8 million services in operation (SIO) for fixed line services.¹
- The number of Australian adults with a fixed line phone service at home was almost half (49%).²
- 44 % of Australians used a fixed phone line in the six months prior to survey in May 2019.³

ACCAN considers this a sizable proportion of the population who are still using fixed-line voice services. ACCAN also considers this segment of the market requires monitoring as there continue to be consumer issues with fixed-line voice services. Landline complaints, which includes complaints about voice services delivered over the Public Switched Telephone Network (PSTN) and voice services delivered on the NBN (VoIP), comprised 13% of the total complaints to the TIO between January to March 2020.⁴

Furthermore, the 2018 Regional Telecommunications Review noted that not all landlines are being repaired within the timeframes set out in the Customer Service Guarantee, with some consumers facing excessive delays. Between 2017-18 there were 8,500 businesses and families with a service that wasn't repaired in the required timeframe.⁵ The Regional Telecommunications Review Committee found this issue to be so serious they called for an audit of repair times for landline services that are not fixed within the specified Customer Service Guarantee timeframes. This does not support the view

¹ Australian Competition and Consumers Commission. (2019). *ACCC Communications Market Report 2018-2019*. https://www.accc.gov.au/system/files/Communications%20Market%20Report%202018-19%20-%20December%202019_D07.pdf

² Australian Communications and Media Authority. (2019). *Communications Report 2018-2019*. <https://www.acma.gov.au/sites/default/files/2020-02/Communications%20report%202018-19.pdf>

³ ACMA (2019)

⁴ Telecommunications Industry Ombudsman. (2020). *Quarterly Report*. https://www.tio.com.au/sites/default/files/2020-05/TIO%202019-20%20Q3%20Report_%28f%29.pdf

⁵ Department of Infrastructure, Transport, Regional Development and Communications. (2018). *2018 Regional Telecommunications Review- Getting it right out there*. <https://www.communications.gov.au/publications/2018-regional-telecommunications-review-getting-it-right-out-there>

that the market for fixed voice services is entirely well functioning and without need of further monitoring.

Whilst the average Australian is using fixed-line voice services less frequently, there are particular groups which will be disproportionately affected by the removal of the fixed-line voice service reporting rules. These include older Australians, those living in regional and remote areas, and small businesses.

ACCAN considers older consumers who continue to use voice services as particularly vulnerable, given that many are on fixed incomes and largely rely on fixed-line services as a secure means of telecommunications. 83% of Australians over the age of 75 continue to use fixed phonelines. Three quarters of Australians between the ages 66-74 use fixed phone services, as well as two thirds of those between ages of 55-64.⁶ The significant proportions of consumers using the services within these age groups means that the proposal will adversely affect older Australian consumers in particular. This is concerning given that the relative old age (65+) poverty rate, defined as having income below half the national median equivalised household income, is almost twice as high among those aged 65+ than the population as a whole (over 23.7% vs over 12.4%).⁷

For regional and remote areas, there is often no, or poor, mobile phone voice service. Thus, residents and businesses are more reliant on fixed voice services. People living in these communities often need to keep a fixed-line voice service due to the unreliability of mobile and internet solutions. This is particularly the case for those Sky Muster customers who do not have mobile coverage and cannot rely on satellite for voice calls given the reliability and quality of the service.⁸ In areas prone to flooding or bush fires, the need for reliable affordable access to a fixed voice service is a matter of safety. The proposal to discontinue monitoring such a vital service is contrary to the importance of landlines in rural and remote areas.

Small businesses are heavily reliant on telecommunications to connect with their customers and support their operations. However, landlines continue to be problematic for small businesses, as evidenced by 35% of complaints to the TIO relating to landline issues coming from small businesses.⁹ Disruption caused by poor fixed-line voice service can have significant impacts on small businesses, particularly those in rural and regional areas, where as mentioned above, it is not always possible to rely on mobile or internet service. Small businesses often have a net income below the average

⁶ ACMA (2019)

⁷ OECD (2020), Poverty rate (indicator). doi: 10.1787/0fe1315d-en (Accessed on 26 June 2020)

⁸ Department of Infrastructure, Transport, Regional Development and Communications. (2018).

⁹ TIO (2020)

Australian wage with 52% of small business owners registered with the ATO as individuals earning between \$0 and \$25,000 a year.¹⁰ Thus, they cannot afford to lose business due to poor fixed voice services.

As noted in the consultation paper, the COVID-19 pandemic is likely to result in an increase in fixed-line voice usage. This highlights how people continue to rely on this technology for communications. Whilst the ACCC's Communications Market Report does not provide a definitive picture of the whole fixed voice services market, Telstra's large retail market share presented in the report continues to be cause for concern. ACCAN acknowledges that prices in this market have fallen. However, without reporting and monitoring of this essential good, Telstra may take advantage of its dominant position in the market, and the progress towards affordable voice services may be negated. As mentioned previously, this will have negative consequences for older Australians, those living in rural and regional areas and small businesses. For these consumer sectors, there is often little choice whether they purchase a voice service, so for this reason ACCAN believes the ACCC should continue monitoring the service.

c) definitions in the RKR

Under the current Division 12 Report RKR Rules, service providers are required to provide definitions of wireless broadband used to differentiate its wireless broadband services from its mobile voice services. The ACCC is proposing to remove this requirement and requires providers to follow the definition provided in the definitions section of the rules. ACCAN supports this proposal as it will provide greater consistency in the data.

As discussed in section 5, we are proposing to combine the Division 12 and Internet Activity RKR and have provided a range of options regarding this proposal. Do you have a preferred option? If so, please provide reasons in the context of usage of the data/cost of provision (for carriers and carriage service providers) under an annual versus bi-annual reporting period.

We note the three options under consideration are:

- A. combine the RKR with annual reporting (June only) and a due date of 31 August

¹⁰ Australian Small Business and Family Enterprise Ombudsman. (2019). *Small Business Counts*. <https://www.asbfeo.gov.au/sites/default/files/documents/ASBFE0-small-business-counts2019.pdf>

- B. Combine the RKR with bi-annual reporting (June and December) and a due date of 31 August (June) and 28 February (December)
- C. Combine the RKR but maintain existing reporting requirements (i.e. bi-annual reporting (June and December) for the internet activity data and annual reporting (June) for the remaining division 12 RKR data requirements)

ACCAN considers it beneficial to report on Internet Activity bi-annually. Based on previous Internet activity reports, the statistics change significantly within a space of 6 months. Therefore, continuing to report on the internet activity data on a bi-annual basis captures the shifting patterns of internet activity fully.

Additionally, ACCAN would prefer the ACCC to request information required by Division 12 RKR on a bi-annual basis. ACCAN uses the data presented in the Annual Communications Market Report to assist in our understanding of both wholesale and retail markets, and by extension supports our policy positions. For this reason, we would prefer information to be collected and reported on a 6-month basis (as described by option B) as this will allow ACCAN to gain a more up to date picture of the telecommunications landscape.

4) While not discussed explicitly in this paper, the ACCC is also seeking feedback on the potential inclusion of upload data as a requirement of the Internet Activity RKR. Would publication of this data be useful to stakeholders?

ACCAN considers upload speeds to be increasingly important and would welcome the decision to include upload data as a requirement of the Internet Activity RKR. ACCAN is aware of small businesses purchasing broadband plans which are not appropriate for their needs. They are often buying asymmetrical services which are designed for households. Gaining a greater insight to the retail market for upload speeds would be useful to ACCAN in understanding this issue further.

Not only do upload speeds impact small businesses, but the COVID-19 pandemic has created a greater need for upload speeds from households. ACCAN considers that the changed digital behaviours as a response to the health crisis will have lasting ramifications which justify the inclusion of upload data as a requirement of the Internet Activity RKR.

Should you wish to discuss this further, please do not hesitate to contact Megan Ward, Economic Advisor, ACCAN.