

**COMMUNICATIONS
ALLIANCE LTD**



ACCC Infrastructure Record Keeping Rules
COMMUNICATIONS ALLIANCE SUBMISSION
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About Communications Alliance

Communications Alliance is the primary telecommunications industry body in Australia. Its membership is drawn from a wide cross-section of the communications industry, including carriers, carriage and internet service providers, content providers, equipment vendors, IT companies, consultants and business groups.

The most influential association in Australian communications, co-operatively initiating programs that promote sustainable industry development, innovation and growth, while generating positive outcomes for customers and society. To create a co-operative stakeholder environment that allows the industry to take the lead on initiatives which grow the Australian communications industry, enhance the connectivity of all Australians and foster the highest standards of business behaviour. For more details about Communications Alliance, see <http://www.commsalliance.com.au>.

INTRODUCTION

Communications Alliance welcomes the opportunity to provide this submission in response to the ACCC's proposed changes to the *Audit of Telecommunications Infrastructure Assets - Record Keeping Rules* (Infrastructure RKR).

This submission focuses on those questions where it is relevant for us to provide input and there are shared views from our members.

There are also some responses on behalf of Communications Alliance's Satellite Services Working Group (SSWG), which do not necessarily reflect the views of Communications Alliance's broader membership. One of the key proposed changes to the rules concerning certain members of the SSWG is the consideration of satellite service providers to be included in the list of record-keepers to provide analysis of competition in relevant telecommunication markets, and hence the ACCC proposed for an annual report from the satellite service providers on the locations of satellite ground stations and the end-user's equipment.¹

We understand that the Australian Mobile Telecommunications Association (AMTA) is also providing a submission that will address the questions about mobile infrastructure, to which many of our members will have also contributed.

Our response to this consultation takes in the broader context of the extensive record-keeping and information provision requirements telecommunications providers must already comply with. These include (but are certainly not limited to) the [Division 12 Record Keeping Rule](#), the [Internet Activity Record Keeping Rule \(RKR\)](#), the [Consumer Complaints Record Keeping Rules](#), [data retention obligations](#) and [disclosures reporting](#). Additionally, there are some record-keeping requirements on individual carriers, along with the ongoing requirements to provide information to the ACMA, Telecommunications Industry Ombudsman and other relevant bodies when requested.

The regulatory burden of such instruments is significant, in that systems must often be re-designed to appropriately capture the information and each time information is to be provided businesses must review all data for accuracy, requiring personnel resources to be pulled from other tasks.

Any such regulatory burden should be appropriately balanced against the benefit of regulators having access to such information.

¹ The SSWG-provided sections of this submission do not represent the views of **nbn**, who will be making a separate submission.

UPDATE TO THE LIST OF RECORD-KEEPERS – SATELLITE SERVICES

3) Should satellite service providers be included in the list of record-keepers? If so, which providers should be included?

[Response provided by SSWG]²

SSWG recommends that in general, Satellite service providers should not be included in the list of record-keepers.

Several members under the SSWG already operate or plan to operate satellite networks consisting of gateway earth stations and user terminals, such as ESIMs and ubiquitous or portable VSATs in Australia.

Furthermore, the provision for an annual report before the end of March each year to the ACCC generates additional overheads to the administrative effort required to operate satellite services in Australia without a clear benefit to be extracted from the information provided.

REPORTING ON END-USER EQUIPMENT

4) Should relevant record-keepers be required to provide information on the location of the end-user's end of the CAN? Are the proposed amendments to the RKR appropriate to achieve this?

This proposal would create significant additional regulatory burden and likely conflicts with security and confidentiality requirements without a clear benefit from this information.

Challenges of data provision

Providers do not typically hold information on end-user locations in one central system or data source. It would require significant resources for a telco to pull together these details – where they have them – from distinct systems. Additionally, many carriers do not hold such data themselves and would need to go to their wholesale customers to have them provide this information, creating regulatory burden along the entire delivery chain of services.

Alongside the regulatory burden, there are confidentiality concerns with this proposal. Data on end-user locations can be commercially and contractually sensitive, and reporting it would in fact effectively be providing customer lists to the ACCC. There are also confidentiality and security agreements in place with certain customers – including, for example, Government agencies – that providers could be in breach of if they were to give addresses or detailed locations to the ACCC.

Lack of established need

The ACCC has not provided a compelling policy justification as to why this information is needed at all, much less when considering the above challenges. The geographic boundary of the CAN module, which must already be provided per 5 (2)(b)(viii) in the draft revised instrument, should be sufficient to enable the ACCC to determine competition. There would not appear to be any benefit for the ACCC having access to the granular level detail of the location of an end-user's equipment.

² See previous footnote re **nbn**

Issues specific to satellite services

[Response provided by SSWG]³

For the fixed terminals such as the gateway earth stations, the ACMA apparatus licensing process, which also includes device registration for the AWL, would require the specific location of these equipment for coordination between services, where necessary. Specifically, the gateway earth stations, which are relatively few, are unlikely to be relocated due to the size and cost invested upfront. Hence, this information is highly unlikely to vary for a long period.

Furthermore, the location information of the satellite transmission sites requested by the ACCC for these Earth Stations could be easily extracted from the ACMA's Register of Radiocommunications Licences.

As such, the SSWG proposes to the ACCC to reconsider mandating such a requirement to be imposed to satellite operators to prevent unnecessary replication of report required. Moreover, the ACCC is able to easily obtain the latest information at any time through the above site.

On the other hand, mobile or ubiquitous terminals are not bounded by geographical boundaries and their use is limited to the extent of the satellites' footprint. The ACMA had taken this into consideration and implemented the licensing of these terminals through the *Radiocommunications (Communication with Space Object) Class Licence 2015* in conjunction with an applicable space/space receive apparatus. As such, user terminals can be authorised by area (which can also extend to the totality of Australia) and not by location. Also, these terminals can be deployed in very large numbers (e.g. possibly in the order of hundreds to thousands). In any case, also due to the mobile/ubiquitous nature of the user terminals, satellite service providers are unable to determine the locations of these ubiquitous terminals for reporting. Details on the space/space receive licences are also available on the ACMA's Register of Radiocommunications Licences.

AGGREGATION OF INFRASTRUCTURE REPORTS AT A NATIONAL LEVEL AND EXPLANATION OF MAP ELEMENTS

9) Should record-keepers be required to provide one individual file representing the national geographic extent of their networks? Are the proposed amendments to the RKR appropriate to achieve this?

10) Are the proposed amendments to Rule 7 adequate to ensure a comprehensive interpretation of maps provided under the Rules?

Similar to the response to question 4 above, this proposal will create significant additional regulatory burden and possible security risks for some providers - although we note this is not necessarily true for all captured record-keepers.

This information is often kept in separate systems for security reasons. If an external party were to illegally access such data, by keeping the data separate, they are only able to access one piece of the information instead of information about an entire network. Additionally, keeping this data in separate systems allows carriers to manage which personnel have access to specific types of data for levels of security clearance of commercial-in-confidence matters. If the ACCC were to require carriers to combine such data, it could be creating a significant security risk.

³ See previous footnote re **nbn**

Such combination would also require substantial work for relevant providers. As some would need to continue keeping the data separate for security purposes, each time such a provider must submit to the RKR, they would need to dedicate resources to combining the data.

Additionally, the proposal to require record-keepers to provide a detailed description of each element depicted in maps will add even more regulatory burden. For some providers, compiling and providing this information will be an extremely labour-intensive task.

NOTICE ON CHANGES IN METHODOLOGY

11) Are the proposed amendments to rule 8 adequate to ensure that changes in methodology are not misinterpreted by the ACCC?

We do not object to the proposal that record-keepers must advise the ACCC if their methodology has changed.

IMPLEMENTATION

If, despite the above concerns, any of these proposals are finalised by the ACCC, record keepers should be given at least 12 months to implement any changes required by amendments to the Infrastructure RKR.

This is particularly true for proposals on end-user equipment and aggregation of data – as noted, these will not only require additional resourcing, but many customers will need to be notified and there will likely be legal processes to be followed where there are security or confidentiality concerns.



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