

ACMA submission to ACCC Internet Activity—Proposed Record Keeping Rules

Response to consultation paper

SEPTEMBER 2018

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Introduction

The Australian Communications and Media Authority (ACMA) is Australia's regulator for telecommunications, broadcasting, some online content and radiocommunications. Our strategic objective is to maximise the economic and social benefits of communications and media for Australia. The ACMA engages with consumers, industry and government to shape and apply the regulatory framework to achieve a connected, informed and entertained Australia.

We welcome the opportunity to comment on the ACCC's proposed Internet Activity Record Keeping Rule (RKR) to collect internet activity data as a replacement for the discontinued Internet Activity Survey (IAS) that was previously published by the Australian Bureau of Statistics (ABS). We have a considerable interest in the IAS—we use the data and information collected to report on key indicators as part of our annual communications report and to inform our regulatory responsibilities.

Given that June 2018 is the final iteration of the IAS, we are keen to work closely with the ACCC to ensure that the new Internet Activity RKR will meet user needs across industry and government.

Context

Historically, the ACMA has relied upon data from the ABS IAS to inform our regulatory responsibilities, both in producing our annual communications report and reporting directly to the Minister for Communications and the Arts:

- > Under the *Australian Communications and Media Authority Act 2005*, we are required to report to the minister on the telecommunications industry and matters affecting consumers of carriage services, conduct research on community attitudes to broadcasting programs, and advise the minister on service and industry trends in the broadcasting and internet industries and content services.
- > Under Section 105 of the *Telecommunications Act 1997*, we are required to report annually on the performance of carriers and carriage service providers (CSPs) in meeting regulatory obligations, with specific reference to consumer satisfaction, consumer benefits and quality of service.

We report volume of data downloaded and subscriber trend information in the communications report and consider these important measures to monitor both demand and supply over fixed and mobile networks over time.

Specifically, we use the following IAS data:

- > subscribers by access technology
- > subscribers by advertised speed tiers
- > volumes of data downloaded by access connection
- > number of mobile handset subscribers.

We consider the ACCC's proposed Internet Activity RKR will address the gap in available internet activity data resulting from the discontinued ABS IAS and offer the following comments to the issues raised in the consultation paper.

Scope of an Internet Activity RKR

Application

The ABS IAS applied to internet service providers (ISPs) who operated in Australia at the end of the reference period and had over 1,000 subscribers. However, subsection 4(1) of the draft Internet Activity RKR proposes that data be collected from only 11 nominated retail service providers (RSPs).

The ACMA notes the 11 providers selected reflects the top five access seeker groups for each of fixed-line, fixed wireless and satellite in the [NBN Wholesale Market Indicators Report](#). We are unclear as to what percentage of the market this will cover, the basis of this change, and the potential impact on comparability with the ABS IAS.

We consider that the RKR should apply to providers who have a specified number of services in operation (SIO) for that financial year. To develop its Telecommunications (Consumer Complaints) Record-Keeping Rule (Complaints RKR)¹, the ACMA undertook market analysis to identify the appropriate number of SIOs to enable maximum coverage while balancing the regulatory burden.

We recommend consideration be given to amending section 4 of the proposed Internet Activity RKR to apply to qualifying service providers with 30,000 or more SIOs to align with the Complaints RKR.² This also enables the RKR to be future-proofed for changes in the market share and structure.

We note that there may be some technology types (such as NBN satellite), which due to their small size may require a lower SIO threshold to ensure adequate coverage. Based on our analysis of the ACMA's NBN Wholesale Market Indicators report, we suggest a threshold of 5,000 SIOs for providers of satellite services may be appropriate.

We suggest that the ACCC consider enabling collection by retail subsidiary/entity rather than on a group basis. This would be of more widespread application to government and, therefore, more likely to reduce the duplication of reporting requests. In addition, if the ACCC wishes to capture retail market share data, separate reporting would be required for each entity and the draft Internet Activity RKR would need to specify this requirement.

¹ Under the Telecommunications (Consumer Complaints) Record-Keeping Rules 2018 (Complaints RKR), each qualifying retail CSP must provide the ACMA with the total number of SIO as at the last day of the record-keeping period and the number of SIOs disaggregated by service type as follows:

- > Fixed broadband services
- > Fixed line telephone services
- > NBN broadband services connected by means of a:
 - > Fibre to the Building connection (FTTB);
 - > Fibre to the Curb connection (FTTC);
 - > Fibre to the Node (FTTN) connection;
 - > Fibre to the Premises (FTTP) connection;
 - > Fixed wireless internet connection;
 - > Hybrid Fibre Coaxial (HFC) connection;
 - > Satellite connection;
 - > NBN voice only services
 - > Public mobile telecommunications services

² A retail CSP (RSP) is a qualifying RSP for a record-keeping period if, on the last day immediately preceding the record-keeping period, the total number of services in operation supplied by the provider was 30,000 or more. The record-keeping period is a period of three months ending on 30 June, 30 September, 31 December or 31 March.

Frequency of an Internet Activity RKR

Data reporting and publication

Twice-yearly releases of data as proposed in subsection 6(2) of the draft Internet Activity RKR affords more up-to-date information and is of greater benefit to government agencies, industry and the public discourse than annual reporting. We note this is consistent with previous reporting under the ABS IAS.

The ABS generally publish the IAS data on its website within four months of collection—the December collection is published in April of the following year and the June collection in October. We expect that the lodgement dates of 31 August and 28 February (for the June and December reporting periods, respectively), as proposed by the draft RKRs, would allow publication of the data within similar time frames to the ABS IAS data.

Data availability

The ACMA supports the need to streamline the reporting process to remove duplication of data requests. To maximise the benefit to all users, information gathered under the proposed RKRs should be published on the ACCC website as soon as practicable after each bi-annual reporting period. In addition to the information for eight reporting periods as proposed in the Output Template (Attachment C), it would be beneficial if data from historical reporting periods outside this window were publicly available—for example, the [ABS Internet Activity Statement data cubes](#) provided information from 11 bi-annual reporting periods.

We also recommend that the collection plan for the Internet Activity RKR include a process for access to historical ABS IAS data, so it continues to be available in the future.

Content of an Internet Activity RKR

Definitions and concepts

The ability to track and maintain historical trend analysis is an important component of the ACMA's reporting requirements. To enable us to continue this functionality, we seek clarification of how the SIO data to be reported under the proposed Internet Activity RKRs compares with subscriber numbers reported under the ABS IAS. We use the ABS IAS data to calculate and track the volume of data downloaded per subscriber over fixed compared with mobile networks, with trend data available for a five-year period in the annual communications report. A change in methodology will result in a break in the trend.

Level of disaggregation

The proposed level of disaggregation is generally consistent with the data previously collected by the [ABS IAS](#). We consider that the speed tier reporting for NBN services required under Internet Activity RKRs (Item (1)(a)(i) Schedule F) aligns with current NBN plans on offer.

The consultation paper states that:

The information and data collected will be used to provide a variety of information on internet activity including:

- > retail market shares for fixed, mobile and wireless broadband services;
- > internet subscribers by access technology;
- > volume of data downloaded by access technology; and
- > broadband data usage per customer.

The Internet Activity RKR adequately address the first and fourth proposed applications of the information. However, we consider that the second and third proposed uses of the information are not fully addressed by the current drafting of the Internet Activity RKR. In particular, current drafting does not provide for the collection of the following NBN service information:

- > number of retail SIOs by access technology
- > volume of data downloaded by access technology.

This contrasts with information requirements for non-NBN services under paragraphs (2)(a) to (b) of Schedules C and F to the Internet Activity RKR, which require disaggregation of retail SIOs and data volume by access technology.

The ACMA notes the consultation paper suggests there is a limitation in some RSPs' ability to provide data disaggregated by access technology. The ABS IAS did provide volume of data downloaded by access technology and, as indicated in the ACCC's Draft Internet Activity RKR Output Template, this will continue to be the case for non-NBN services only. The ACMA considers that the exclusion of disaggregated data by access technology for NBN services from the proposed Internet Activity RKR is not consistent with the approach by the ABS. The ACMA also considers that collection of disaggregated data by technology type for only non-NBN services does not enable the RKR to be future-proofed in line with the continued roll-out of the NBN.

The ACMA considers these issues with NBN service information could be addressed by revising:

- > Item (2) of Schedule B to include the following provisions:
 - > (2)(c) The total number of Retail SIOs by Reference Date, by access technology
 - > (2)(g) The total Data Volume for the Reporting Period, by access technology
- > Item (1) of Schedule F to include an additional two tables as follows:
 - > (1)(a)(iii) Retail SIOs, by access technology
 - > (1)(c) Data volume, by access technology.

Output Template (Attachment C)

The current layout of the Output Template provides for all aggregate level internet activity metrics consistent with data gathered under the proposed Internet Activity RKR, except for mobile SIOs disaggregated by specific features (Table 3). Paragraph 3(b) of Schedule F to the Internet Activity RKR requires information to be reported about mobile plan SIOs disaggregated by specific features and type of mobile service (prepaid, post-paid and mobile broadband). However, the proposed Table 3 does not disaggregate data by type of mobile service.

Consistent with tables 1 and 4 of Attachment C, we propose that Table 3 be expanded to include mobile data disaggregated by all subcategories (prepaid, post-paid and mobile broadband), as follows:

Table 3. Broadband and mobile plan services in operation (SIOs) by specific features

	Dec-18	Jun-19	Dec-19	Jun-20 etc.
Services in operation (SIOs)				
NBN				
No data limit plans				
Entertainment products				
Non-NBN broadband				
No data limit plans				
Entertainment products				
Mobile				
Prepaid				
No data limit plans				
Entertainment products				
Post-paid				
No data limit plans				
Entertainment products				
Mobile broadband				
No data limit plans				
Entertainment products				

Consistent with the changes recommended to schedules B and F to the Internet Activity RKR, we propose that Table 2 of Attachment C be expanded to include NBN SIOs by access technology and Table 5 expanded to include NBN data downloaded by access technology.

In addition, we report on mobile handset broadband and mobile wireless broadband separately in the annual communications report—both subscriber information and volume of data downloaded. It is unclear as to whether the mobile prepaid and post-paid categories listed above equate to the former ABS mobile handsets definition, and whether the mobile broadband equates to the mobile wireless broadband category.

Conclusion

We look forward to working closely with the ACCC in relation to the gathering and reporting of internet activity and other similar data.

If you would like to discuss any aspect of our submission, please contact:

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