



Division 12 Record Keeping Rules

Competition and Consumer Act 2010

The AUSTRALIAN COMPETITION AND CONSUMER COMMISSION amends these Rules under subsection 151BU(1) of the *Competition and Consumer Act 2010* as set out in the attachment.

These amendments will come into effect on the day that Schedules 2 and 3 of the *Telstra Corporation and Other Legislation Amendment Act 2021* come into effect

Dated December 2022

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Australian Competition and Consumer Commission



Division 12

Record-Keeping and Reporting Rules

Issued under section 151BU of the
Competition and Consumer Act 2010

1. TITLE

- (1) These Rules, made by the Australian Competition and Consumer Commission (ACCC) under section 151BU of the *Competition and Consumer Act 2010*, are called the Division 12 Record-Keeping and Reporting Rules.

2. COMMENCEMENT

- (1) These Rules commence on ~~the date this amended instrument is signed~~ the day that Schedules 2 and 3 of the *Telstra Corporation and Other Legislation Amendment Act 2021* come into effect.
- (2) These Rules replace the Division 12 Record-Keeping and Reporting Rules made in ~~September 2020~~ May 2022 (the 2020 Rules).
- (3) For the avoidance of doubt, these Rules will apply to the reporting for the reporting period ending immediately after the commencement date and all subsequent reporting periods. ~~record-keeping and reporting for the June 2022 Reporting Period and all subsequent Reporting Periods.~~

Note: The ACCC will issue the Rules by making a public announcement and placing the Rules on its website.

3. INTERPRETATION

ACCC means the Australian Competition and Consumer Commission.

Act means the *Competition and Consumer Act 2010*.

ADSL means asymmetric digital subscriber line, and is a broadband Internet transmission technique.

basic access means:

- (i) establishing the supply of a standard telephone service at a location required by the person requesting the supply of the service, but does not include:
 - a. in respect of a business requesting the service – the supply of materials or services to support the supply of a standard telephone service from a main distribution frame to the location requested by the business; or
 - b. the supply and connection of a telephone handset or other customer equipment; and
- (ii) the ongoing supply of a standard telephone service at a location required by the person requesting the supply of the service, but does not include:
 - a. in respect of a business requesting the service – the supply of materials or services to support the supply of a standard telephone service from a

- main distribution frame to the location requested by the business; or
- b. the supply and connection of a telephone handset or other customer equipment.

broadband	means an Internet connection that enables high speed usage with high capacity limits and download speeds of greater than or equal to 256 Kbits/sec.
business consumer	means a consumer that has a contract with a carrier or carriage service provider for the supply of a telecommunications service for the purposes of carrying on a commercial, government, community, religious, non-profit organisation, an association or club, or a like organisation.
cable	means a broadband Internet service provided by means of a fixed customer access network that does not primarily utilise twisted pair copper, and includes services delivered over optic fibre or coaxial cable, but does not include services provided on the NBN.
carriage service provider	has the same meaning as in the <i>Telecommunications Act 1997</i> .
carrier	has the same meaning as in the <i>Telecommunications Act 1997</i> .
consumer	means a person who has a contract with a carrier or carriage service provider for the supply of a telecommunications service. It does not include a carriage service provider or carrier acquiring a telecommunications service in its capacity as a carriage service provider or carrier for the purposes of resale.
directly connected customer	means any person, business or other entity to whom an ISP provides an Internet service under a direct contractual relationship.
DSL broadband	means digital subscriber line, and is a broadband Internet transmission technique.
financial year or FY	has the same meaning as in the <i>Corporations Act 2001 (Cth)</i> .
fixed-line voice services	means PSTN voice services and VoIP services (including VoIP services provided on the NBN) and is inclusive of residential and business consumers.
HFC	means a network that combines optical fibre and coaxial cable (commonly known as 'Hybrid Fibre Coaxial').

home wireless broadband	means an internet connection which provides short range, high data rate connections between a fixed modem and access points connected to a mobile network.
iiNet	means iiNet Limited (ABN 48 068 628 937).
internet service	means a retail service supplied to directly connected customers and provided by means of an IP network.
IP network	means a facility consisting of equipment utilising: <ul style="list-style-type: none"> (i) the Internet protocol stack; (ii) routers, whether domestic or international; and (iii) transmission links used primarily for transmission of Internet traffic, and includes Internet exchange points.
ISP	means an Internet service provider.
M2M	means machine-to-machine and is a direct communication between devices using any communication channel, including fixed/wired and wireless.
mobile broadband	means an internet connection which provides short range, high data rate connections between mobile data devices and access points connected to a network. Examples include mobile WiMax and 3G/4G/5G accessed through a data card, USB modem or tablet SIM card (excluding a mobile handset).
mobile services	means post-paid and prepaid mobile plans.
NBN	means National Broadband Network.
NBN services	means telecommunications services provided by means of the NBN.
non-NBN fixed services	means services provided over DSL, cable/HFC, fibre, fixed wireless and satellite, excluding services provided by means of the NBN.
originating	means the network to which the calling customer/device is connected.
post-paid mobile	means mobile telephony services for which a consumer contracts to pay a specified monthly charge (or a charge based on some other discrete time period) that includes a payment for a handset, access, subscription and some call usage. The consumer generally agrees to pay this amount for a minimum number of months (or other discrete time period). If the consumer consumes services during a particular month whose value exceeds the

agreed minimum, the customer is generally billed an additional amount for the consumption of such services.

prepaid mobile	means mobile telephony services for which a consumer is not billed regularly, but rather pays upfront for handset, access, call charges etc.
PSTN	means Public Switched Telephone Network, and is a telephone network accessible by the public providing switching and transmission facilities utilising analogue and digital technologies.
Reference date	means 30 June (for a financial year ending on that date).
residential consumer	means a consumer that is not a business consumer.
Rules	means these Division 12 Record-Keeping and Reporting Rules.
Singtel Optus	means Singtel Optus Pty Limited (ABN 90 052 833 208).
SMS	means short message service, and is a mobile telecommunications data transmission service that allows users to send short text messages to each other using the keypad.
standard telephone service	has the meaning given by the <i>Telecommunications (Consumer Protection and Service Standards) Act 1999</i> .
terminating	means the network to which the called customer/device is connected.
TPG	means TPG Telecom Limited (ABN 76 096 304 620) (formerly known as Vodafone Hutchison Australia Pty Limited).
TPG Entities	means iiNet, TPG and TPM.
TPM	means TPG Corporation Limited (ABN 46 093 058 069) (formerly known as TPG Telecom Limited).
Telstra	means Telstra Corporation Limited (ABN 33-051-775-55664 <u>086 174 781</u>).
Vocus Group	means Vocus Group Limited (ABN 96 084 115 499).
VoIP	means Voice over Internet Protocol. A technology used for voice services over a network using the Internet Protocol.

5. APPLICATION

- (1) These Rules apply to:

iiNet Limited (ABN 48 068 628 937)

Singtel Optus Pty Ltd (ABN 90 052 833 208)

Telstra ~~Corporation~~-Limited (ABN ~~33 051 775 55664 086 174 781~~)

TPG Corporation Limited (ABN 46 093 058 069)

TPG Telecom Limited (ABN 76 096 304 620)

Vocus Group Limited (ABN 96 084 115 499).

- (2) These Rules also apply to a carrier or carriage service provider that is notified by the ACCC in writing that the Rules apply to that carrier or carriage service provider.

- (3) A written notice given to a carrier or carriage service provider under subparagraph (2):

- (a) must specify the commencement date from which the Rules will apply to the carrier or carriage service provider, which must be no less than 60 days from the date of the notice;
- (b) must specify the categories of information prescribed in **Schedule A** that will apply to the carrier or carriage service provider;
- (c) may specify that all provisions of these Rules apply to the carrier or carriage service provider, or that particular provisions do not apply or apply with modifications; and
- (d) must be published on the ACCC's website.

- (4) (a) A TPG Entity may perform its obligation under these rules as if it, together with the other TPG Entities, were a single entity.

(b) Without limiting subclause 4(a), a report provided to the ACCC by one TPG Entity that consists of aggregated information relating to all TPG Entities, is taken to have been provided by each TPG Entity.

6. RECORD KEEPING

- (1) A carrier or carriage service provider listed in column 3 of **Schedule A** must keep and retain records of the information specified in columns 1 and 2 of **Schedule A** in accordance with the requirements for recording that information specified in column 4 of **Schedule A**.

7. REPORTING REQUIREMENTS

- (1) Each carrier or carriage service provider listed in paragraph 4(1), or notified in accordance with paragraph 4(2), must provide to the ACCC each year a report containing the information required to be kept in accordance with these Rules.
- (2) A report required to be prepared in respect of a financial year must be lodged with the ACCC by 15 September following the last day of that financial year.
- (3) A report must be prepared and submitted electronically in a Microsoft Excel format, or as otherwise specified on the ACCC's website.

- (4) A report must be provided to the ACCC by email to RKRinbox@acc.gov.au, or as otherwise specified on the ACCC's website.
- (5) If, in preparing a report in respect of a financial year, a carrier or carriage service provider varies the method of defining, recording and reporting information from the method that was used in the report for the previous financial year, then the carrier or carriage service provider must provide:
- (a) a description of the new method of defining, recording and reporting information;
 - (b) the reasons for why the carrier or carriage service provider has chosen to change their method of defining, recording and reporting information;
 - (c) separate reports containing the information required to be kept in accordance with these Rules for both:
 - a. the current financial year; and
 - b. the previous financial year, both applying the new method of defining, recording and reporting information.

- (6) A report must be accompanied by a signed declaration of a responsible officer of the carriage service provider in the form of **Schedule E**.

Note: Under section 151BV of the Act, a person who incorrectly makes a record of any matter or thing in purported compliance with these Rules is liable to conviction by imprisonment for a term not exceeding 6 months.

- (7) Reports must be prepared in the manner and form outlined for keeping records, as relevant, in **Schedules B, C and D** using the appropriate template specified in **Schedule F**.
- (8) The templates specified in **Schedule F** may be amended by the General Manager of the Infrastructure Regulation Division from time to time. An amendment must be published on the ACCC's website. An amendment takes effect on the day that is 60 days after the amendment has been published on the ACCC's website, or such later date as may be specified in the amendment.

Schedule A

Categories of information to be recorded by carriers and carriage service providers under these Rules

<i>Column 1: Category No.</i>	<i>Column 2: Category name</i>	<i>Column 3: Reporting carriers and carriage service providers covered by each category</i>	<i>Column 4: Requirements for keeping records</i>
(1)	Fixed-line voice services information	iiNet, Singtel Optus, Telstra, TPG, TPM, Vocus Group and any other carrier or carriage service provider given notice in accordance with Rule 4(2) that this category of information applies to it.	Schedule B
(2)	Mobile services information	Singtel Optus, Telstra, TPG and any other carrier or carriage service provider given notice in accordance with Rule 4(2) that this category of information applies to it.	Schedule C
(3)	Internet services information	iiNet, Singtel Optus, Telstra, TPG, TPM, Vocus Group and any other carrier or carriage service provider given notice in accordance with Rule 4(2) that this category of information applies to it.	Schedule D

Schedule B

Fixed-line voice services information to be reported by carriers and carriage service providers to the ACCC

- (1) The carriers and carriage service providers listed in Category (1) of **Schedule A** must provide the information outlined in paragraph (2) below, in accordance with the template set out in section 1 of **Schedule F**
- (2) For fixed-line voice services, carriers and carriage service providers must state:
 - (a) Basic Access Retail SIO as at the Reference Date.
 - (b) Originating¹ call minutes for the financial year.
 - (c) Terminating call minutes for the financial year.
 - (d) Total call minutes for the financial year.
 - (e) Number of originating¹ calls for the financial year.
 - (f) Number of terminating calls for the financial year.
 - (g) Total number of calls for the financial year.

¹ Includes retail and wholesale as well as on-net and off-net.

Schedule C

Mobile phone services information to be reported by carriers and carriage service providers to the ACCC

- (1) The carriers and carriage service providers listed in Category (2) of **Schedule A** must provide the information outlined in paragraph (2) below, in accordance with the template set out in section 2 of **Schedule F**
- (2) For mobile services, carriers and carriage service providers must state:
 - (a) Originating² call minutes for the financial year.
 - (b) Terminating call minutes for the financial year.
 - (c) Total call minutes for the financial year.
 - (d) Originating² SMS for the financial year.
 - (e) Terminating SMS for the financial year.
 - (f) Total SMS for the financial year.
 - (g) Revenue from Retail prepaid services for the financial year.
 - (h) Revenue from Wholesale prepaid services for the financial year.
 - (i) Total revenue from all prepaid services for the financial year.
 - (j) Revenue from Retail post-paid services for the financial year.
 - (k) Revenue from Wholesale post-paid services for the financial year.
 - (l) Total revenue from all post-paid services for the financial year.

² Includes retail and wholesale as well as on-net and off-net.

Schedule D

Internet services information to be reported by carriers and carriage service providers to the ACCC

- (1) The carriers and carriage service providers listed in Category (3) of **Schedule A** must provide the information outline in paragraph (2) below, in accordance with the template set out in section 3 of **Schedule F**
- (2) For internet services, carriers and carriage service providers must state:
 - (a) Total revenue from NBN services for the financial year.
 - (b) Total revenue from non-NBN fixed services for the financial year.
 - (c) Total revenue from mobile broadband services for the financial year.
 - (d) Total revenue from M2M services for the financial year.
 - (e) Total revenue from home wireless broadband services for the financial year.

Schedule E

Record-Keeping Declaration

(Date)

General Manager
Infrastructure Regulation Division
Australian Competition and Consumer Commission

Statement by CARRIER or CARRIAGE SERVICE PROVIDER

I declare that:

- (a) the reports are prepared in accordance with the requirements of the Rules; and
- (b) the reports are accurate in all material respects.

Dated at this day of 20

(Name)

(Position)

Schedule F

Templates for submission of reports

Division 12 Record-Keeping and Reporting Rules

Spreadsheet for submission to the ACCC

Issued under s 151BU of the *Competition and Consumer Act 2010*

NOTE: This is provided as a reference only. A spreadsheet template is provided on the ACCC website in Excel format.

Reporting carrier or carriage service provider: *(please complete)*

Reporting Year: 20XX-20YY

Spreadsheet Table of Contents:

Service Information

1 Fixed-line voice services information

2 Mobile services information

3 Internet services information

Instructions

This spreadsheet is to be read in conjunction with the Division 12 Record-Keeping and Reporting Rules. It is designed to provide a template for submission of information and is not a complete statement of obligations under the Rules.

For those carriers or carriage service providers who report on multiple service types, please complete each relevant section and submit as one Microsoft Excel file.

The following table illustrates those parts of the spreadsheet that each type of reporting carrier or carriage service provider is required to complete:

<i>Reporting Type</i>	<i>Required to complete</i>
<i>Fixed-line voice services information</i>	iiNet, Singtel Optus, Telstra, TPG, TPM and Vocus Group
<i>Mobile services information</i>	Singtel Optus, Telstra and TPG
<i>Internet services information</i>	iiNet, Singtel Optus, Telstra, TPG, TPM and Vocus Group

(1) Fixed-line voice services

(i) Basic access

	<i>As at the previous Reference Date</i>	<i>As at the current Reference Date</i>
Retail SIOs		

(ii) Call metrics

	<i>For the previous FY</i>	<i>For the current FY</i>
Call minutes – originating ³		
Call minutes – terminating		
Total call minutes		
Number of calls – originating ³		
Number of calls – terminating		
Total number of calls		

(2) Mobile services

	<i>For the previous FY</i>	<i>For the current FY</i>
Call minutes – originating ³		
Call minutes – terminating		
Total call minutes		
SMS – originating ³		
SMS – terminating		
Total SMS		
Revenue – retail prepaid mobile services		
Revenue – wholesale prepaid mobile services		
Total revenue – all prepaid mobile services		
Revenue – retail post-paid mobile services		
Revenue – wholesale post-paid mobile services		
Total revenue – all post-paid mobile services		

(3) Internet services

	<i>For the previous FY</i>	<i>For the current FY</i>
Total revenue – NBN		
Total revenue – non-NBN fixed		
Total revenue – mobile broadband		
Total revenue – M2M		
Total revenue – home wireless broadband		

³ Includes retail and wholesale as well as on-net and off-net.