



AUSTRALIAN COMPETITION  
& CONSUMER COMMISSION

# Internet Activity – Proposed Record Keeping Rules

## Consultation Paper

Date

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## Glossary

<b>Term</b>	<b>Definition</b>
<b>ABN</b>	Australian Business Number
<b>ABS</b>	Australian Bureau of Statistics
<b>ACCC</b>	Australia Competition and Consumer Commission
<b>CCA</b>	<i>Competition and Consumer Act 2010 (Cth)</i>
<b>IAS</b>	Internet Activity Survey
<b>ISP</b>	Internet Service Provider
<b>NBN</b>	National Broadband Network
<b>RKR</b>	Record Keeping Rule
<b>RSP</b>	Retail Service Provider
<b>SIO</b>	Services in Operation

# 1. Introduction

## 1.1. Background and purpose

On 23 May 2018, the Australian Bureau of Statistics (ABS) announced that it would be discontinuing its Internet Activity Survey (IAS), with the June 2018 IAS being the final iteration of the survey.

The ABS IAS provides a variety of information about internet activity in Australia. This includes information on subscribers by access technology, subscribers by advertised speed tiers, volumes of data downloaded by access connection and the number of mobile handset subscribers.

Data from the current ABS IAS is widely used by industry, the ACCC and other government agencies such as the Australian Communications and Media Authority (ACMA), the Department of Communications and the Arts (DoCA) and the Department of Industry, Innovation and Science (DIIS). The Organisation for Economic Co-operation and Development (OECD) also utilise IAS data for international comparisons. There are currently no suitable replacement sources of data.

The Australian Competition and Consumer Commission (ACCC) proposes a new Record Keeping Rule (RKR) to collect internet activity data, called the Internet Activity RKR, given the importance of the data for its monitoring, analysis and reporting functions, and to other organisations. The ACCC also recognises the value of making this information publicly available.

The purpose of this consultation paper is to seek views on the ACCC's proposed Internet Activity RKR. The ACCC seeks comment from industry participants, other stakeholders and members of the public.

## 1.2. Consultation process

The ACCC is seeking submissions from a range of stakeholders including industry and data users on the specific questions raised in this consultation paper, but invites comments on any other matters relating to the introduction of an Internet Activity RKR. Submissions should be provided by **COB 21 September 2018**.

Following its considerations of submissions to the Consultation Paper, the ACCC will release the final version of the Internet Activity RKR.

### *Submission of commercial-in-confidence material*

All submissions will be considered by the ACCC as public submissions and will be posted on the ACCC website. Interested parties wishing to submit commercial-in-confidence material to the ACCC should submit both a public version and commercial-in-confidence version of their submission. The ACCC has issued a guideline setting out the process parties should follow

when submitting confidential information to communications inquiries commenced by the ACCC. The guideline is available on the ACCC website at:

<https://www.accc.gov.au/publications/communications-inquiries-submitting-confidential-material>

#### *Contact officer and submission lodgement details*

Inquiries in the first instance should be directed to Mr Ray Abdul Rahim at (08) 9325 0609.

*Please email submissions to:*

[iarkr@acc.gov.au](mailto:iarkr@acc.gov.au)

## 2. The Internet Activity RKR

### 2.1. Proposed implementation of an Internet Activity RKR

The ACCC is intending to undertake collection and analysis of internet activity data through a new Internet Activity RKR, under Section 151BU of the CCA, from the December 2018 reporting period onwards.

The information and data collected under the proposed RKR will be used to inform the regulatory processes that fall under Part XIB and Part XIC of the CCA.

The ACCC will use information and data from the proposed RKR to inform its [reports](#) to the Minister for Communications on competitive safeguards within the Australian telecommunications industry under subsection 151CL(1) of the CCA. 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.

In addition, the ACCC will use the information and data to assist with reporting on prices paid by consumers for telecommunications services under paragraph 151CM(1)(a) of the CCA. It may also use the information and data in other regulatory processes to inform the ACCC's decision making and its understanding of relevant markets.

The ACCC will also periodically release aggregate level internet activity metrics, based on the data gathered from the RKR. This output, to be made available on the ACCC website, will seek to inform the general public, industry, government agencies and other users about internet activity in Australia.

## 2.2. Regulatory framework

The ACCC has the power to collect information from industry to undertake its telecommunications regulatory functions under the *Competition and Consumer Act 2010* (CCA) and relevant telecommunications legislation.

Section 151BU of the CCA provides that the ACCC may make RKR that require carriers and carriage service providers to keep records and provide reports of information in those records to the ACCC.

The ACCC cannot require records to be kept unless they contain information relevant to the operation of certain parts of the CCA or certain other legislation. The ACCC is proposing to undertake a collection of internet activity in Australia to assist the ACCC's monitoring, analysis and reporting functions in the telecommunications industry, specifically subsection 151CL(1) and paragraph 151CM(1)(a) of the CCA.

## 2.3. Attachments

The attachments included as part of this Consultation Paper are:

- a draft Internet Activity RKR document (Attachment A), which outlines the ACCC's proposed approach including scope, definition of technological terms, reporting frequency, method of submission and information requirements;
- a draft Input Template Spreadsheet (Attachment B), to assist providers in submitting their data electronically; and
- a draft Output Template for data users (Attachment C), which the ACCC proposes to release on their website after each reporting period.

Please review these documents as they form the basis for consultation questions within the Paper. Submissions to the Consultation Paper can refer to any, or all, of the documents listed above.

## 3. Matters for consultation

To assist with the creation and content of the RKR, the ACCC is seeking views from interested parties on the following matters.

### 3.1. Scope of an Internet Activity RKR

The ACCC proposes a modified and reduced scope of collection in comparison to the ABS IAS. Currently the ABS collects information from Internet Service Providers (ISP) who operated in Australia at the end of the reference period and had over 1,000 subscribers. The ACCC is seeking to reduce the scope of the survey and proposes to collect information from the Retail Service Providers (RSP) listed below that provide fixed line, wireless and satellite telecommunication services in Australia. The RSPs subject to the IAS RKR may change in the future subject to market and other developments impacting on their subscriber numbers

<b>Record-keeper/ Australian Business Number (ABN)</b>	<b>Subsidiaries and/or related entities</b>
Telstra Corporation Limited 33 051 775 556	
TPG Telecom Limited 46 093 058 069	iiNet Limited 48 068 628 937
Vocus Group Limited 96 084 115 499	Dodo Services Pty Ltd 33 158 289 331 Primus Telecommunications Pty Limited 69 071 191 396
Singtel Optus Pty Limited 90 052 833 208	Virgin Mobile (Australia) Pty Limited 67 092 726 442
Vodafone Hutchison Australia Pty Limited 76 096 304 620	
Australian Private Networks Pty Ltd 27 103 009 552	
Harbour ISP Pty Ltd 44 154 752 968	
IPStar Australia Pty Ltd 85 107 338 901	
SkyMesh Pty Ltd 38 613 736 137	
Aussie Broadband Pty Ltd 29 132 090 192	
MyRepublic Pty Ltd 75 603 909 815	

### 3.2. Frequency of an Internet Activity RKR

The ACCC is investigating the appropriate frequency of its proposed RKR. Currently, the ABS undertakes the IAS on a bi-annual basis. Options include:

- a bi-annual collection to align with the June and December reporting periods of the ABS IAS; or
- an annual collection with a 30 June ending reporting period.

The ACCC intends to release outputs after every reporting period (Attachment C). A bi-annual collection will mean a twice-yearly release of data, while an annual collection will mean a yearly release.

In addition, the ACCC proposes a two-month window for submission of data from providers. For instance, for a June reporting period (ending 30 June), the due date for data submission would be 31 August.

### 3.3. Content of an Internet Activity RKR

Subject to consultation, the information contained within Attachment A would be required from each RSP selected for the RKR, where relevant.

While the ACCC seeks to undertake this RKR as a replacement for the IAS, it proposes a number of changes to the original survey, such as the removal of the corporate and

household split, the alignment of download speed tiers with National Broadband Network (NBN) wholesale speed tiers and the introduction of NBN and non-NBN disaggregation. These changes will align the RKR with the ACCC's data requirements and priorities.

Two main types of information will be required; Services in Operation (SIO) information as at 30 June and 31 December in each year, and data download volumes for the three month period ending on 30 June and 31 December in each year. For instance, for the June reporting period, providers will be required to provide SIO numbers as at 30 June and aggregate data download volumes for April, May and June. This ensures comparability of data over time, is also consistent with current ABS IAS reporting requirements.

For NBN services, the RSP will be required to provide:

- total retail SIOs by NBN wholesale speed tiers;
- total retail SIOs for no data limit products, and (separately) for entertainment products; and
- data downloaded, by wholesale speed tiers.

For non-NBN fixed services, the RSP will be required to provide:

- total retail SIOs by access technology;
- total retail SIOs for no data limit products, and (separately) for entertainment products; and
- data downloaded, by access technology.

For various types of mobile services, the RSP will be required to provide:

- total retail SIOs and total wholesale SIOs; and
- total retail SIOs for no data limit products, and (separately) for entertainment products; and
- data downloaded, via wholesale SIOs and (separately) via retail SIOs.

Initial feedback by RSPs prior to this public consultation has led to some refinements to the proposed RKR to better align with RSPs' reporting limitations, such as the removal of NBN disaggregation by access technologies and combining 'post-paid sim only' and 'post-paid handsets' into a consolidated 'post-paid mobile' category.

While the content of the draft RKR has been developed with both data users and data providers in mind, the ACCC welcomes feedback on the suitability of the RKR requirements, and any proposed changes to them that would better inform stakeholders about internet activity in Australia.



## 4. Questions on which the ACCC seeks views

The ACCC is seeking comments in response to the questions set out below, and any other matters relating to the introduction of an Internet Activity RKR. Where relevant, we ask that you provide reasons in support of your view.

- 1) Are the definitions and concepts outlined within the proposed RKR (Attachment A) easy to understand, accurate and relevant? If not, what changes would you suggest?
- 2) The ACCC has proposed either a bi-annual (June and December) or annual (December) reporting frequency. What would be an appropriate reporting frequency for the RKR?
- 3) The ACCC will be aiming to collect information on SIO and volumes of data downloaded by NBN wholesale speed tiers. Will this level of disaggregation allow appropriate insight into the NBN market?
- 4) The ACCC has reduced the scope of the information that it proposes to collect (see Section 3.1 above). Are there any other RSPs that should be considered for inclusion?
- 5) The ACCC is proposing to make the information collected via the RKR publicly available in aggregate form. Are there any comments you wish to make on this?
- 6) For data users, is the layout of the Output Template (Attachment C) easy to understand and fit for purpose? If no, what changes would you suggest?

*For RSPs only:*

- 7) Are the proposed data requirements, as outlined in Attachment A, feasible and reasonable? If no, what changes would you suggest?
- 8) Is the proposed Input Template (Attachment B) easy to understand and fit for purpose? If no, what changes would you suggest?
- 9) As outlined in Attachment A, the ACCC is proposing to collect estimates on the total volume of data downloaded by subscribers in the 3 months to 30 June, and the 3 months to 31 December, each year, in alignment with ABS IAS collection methodology. Is there a reason not to maintain this approach?
- 10) Is a submission due date of two months following the reporting period sufficient to collate and submit all necessary data items requested as part of the RKR? If not, please explain why.

## 5. Next steps

The ACCC will take into consideration all submissions to the Consultation Paper, in drafting its Internet Activity RKR. The ACCC will aim to release the final version of the RKR towards the end of 2018.