



Record Keeping Rules update: Infrastructure Record Keeping Rules and Internet Activity Record Keeping Rules

Consultation paper

November 2023

Acknowledgement of country

The ACCC acknowledges the traditional owners and custodians of Country throughout Australia and recognises their continuing connection to the land, sea and community. We pay our respects to them and their cultures; and to their Elders past, present and future.

Australian Competition and Consumer Commission

Land of the Ngunnawal people

23 Marcus Clarke Street, Canberra, Australian Capital Territory, 2601

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1. Introduction

1.1. Purpose and background

The Australian Competition and Consumer Commission (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 record keeping rules which require carriers and service providers to keep records and provide reports of information in those records to the ACCC.

The purpose of this consultation paper is to seek stakeholders' views on the Australian Competition and Consumer Commission's (ACCC) proposed amendments to the following Record keeping rules:

- the Audit of Telecommunications Infrastructure Assets Record Keeping Rules (Infrastructure Record Keeping Rules), and
- the Internet Activity Record Keeping Rules.

The ACCC is proposing to amend the list of specified record keepers to both rules to reflect recent changes in the industry. This will assist the ACCC in administering a range of its regulatory functions and responsibilities under Part XIB and Part XIC of the CCA.

The changes proposed to the Infrastructure Record Keeping Rules are:

- Removal of Spirit Telecom Ltd as a record keeper. During 2021 and 2022, Spirit Telecom Ltd divested its customer access network and core network assets.
- Addition of Maret Group Pty Ltd, Maret Infrastructure Pty Ltd and XYZ Telecom Pty Ltd, to which Spirit Telecom Ltd divested assets to during 2022.¹

The changes proposed to the Internet Activity Record Keeping Rules are:

- Removal of MyRepublic Pty Ltd, which no longer provides broadband services in Australia.²
- Addition of Superloop Limited as a record keeper, which acquired MyRepublic Pty Ltd's subscribers in late 2022.³

¹ Australian Securities Exchange, [Spirit completes divestment of fixed wireless assets for up to \\$21M](#), 1 June 2022, Spirit Technology Solutions (ASX:ST1), accessed 17 October 2023; Australian Securities Exchange, [Spirit update](#), 1 December 2022, Spirit Technology Solutions (ASX:ST1), accessed 17 October 2023. See also Australian Securities Exchange, [Spirit completes divestment of consumer assets for \\$5.1M to focus on modern digital workplaces](#), 29 October 2021, Spirit Technology Solutions (ASX:ST1), accessed 17 October 2023, where Spirit Telecom Ltd also divested assets to DGtek Pty Ltd, which is already a record keeper under the Infrastructure Record Keeping Rules.

² MyRepublic, [MyRepublic is no longer offering broadband services in Australia](#), 2022, accessed 17 October 2023.

³ Australian Securities Exchange, [Acquisition of MyRepublic Subscribers Completed](#), 30 December 2022, Superloop Limited (ASX:SLC), accessed 17 October 2023.

- Removal of Harbour ISP Pty Ltd, which merged with its parent brand Uniti from 1 June 2023 and also migrated NBN customers to Aussie Broadband following the acquisition of those customers by Aussie Broadband.⁴
- Addition of Uniti Retail Pty Ltd as a record keeper, as it has taken on Harbour ISP's non-NBN services.

1.2. Commencement of proposed changes

The ACCC is proposing that the rule changes take effect as soon as possible.

- For the Infrastructure Record Keeping Rules, the new rules will take effect for the 31 January 2024 reference date.
- For the Internet Activity Record Keeping Rules, the new rules will take effect for the 31 December 2023 reference date.

1.3. Submission process

The ACCC is seeking submissions from stakeholders including industry and record keeping rule data users on the specific questions raised in this consultation paper.

Submissions should be provided by **30 November 2023**.

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

Enquiries in the first instance should be directed to Debbie Graf at (03) 9910 9564.

Please email submissions to: RKRinbox@acc.gov.au

⁴ Harbour ISP, [Harbour ISP is now Uniti Internet](#), 2023, accessed 17 October 2023; Harbour ISP, [An important notice for nbn customers](#), accessed 17 October 2023.

2. Audit of Telecommunications Infrastructure Assets Record Keeping Rules

2.1. Background

The [Infrastructure Record Keeping Rules](#) were first issued in December 2007 and last revised in November 2022. They require specified carriers to report on the extent and location of their core network and customer access network infrastructure, as well as leased infrastructure or infrastructure operated on behalf of third parties. Under section 151BU of the CCA, the ACCC has the powers to make a record keeping rule and require that specified carriers and carriage service providers comply with this rule.

2.2. Proposed changes to the Rules

The proposed changes are to:

- remove Spirit Telecom Ltd (ACN 089 224 402), and
- add:
 - Maret Group Pty Ltd (ACN 643 665 249),
 - Maret Infrastructure Pty Ltd (ACN 656 106 044), and
 - XYZ Telecom Pty Ltd (ACN 663 410 795)

to the list of specified record keepers.

3. Internet Activity Record Keeping Rules

3.1. Background

The [Internet Activity Record Keeping Rules](#) were issued in December 2018 and last revised in December 2022. They currently collect information bi-annually from retail service providers including MyRepublic Pty Ltd (ABN 75 603 909 815) and Harbour ISP Pty Ltd (ABN 44 154 752 968).

Information gathered under the Internet Activity Record Keeping Rules includes the number of retail services in operation (SIOs) in terms of access connection, wholesale speed tier and the volume of data downloaded across NBN, non-NBN fixed and mobile services. The full suite of information collected under the Record Keeping Rules is released as part of the [Internet Activity Report](#).

Under section 151BU of the Competition and Consumer Act 2010, the ACCC has the powers to make a record keeping rule and require that specified carriers and carriage service providers comply with this rule.

Similar information on internet activity was previously collected by the Australia Bureau of Statistics under its Internet Activity Survey. This survey was discontinued in June 2018.

3.2. Proposed changes to the Rules

The proposed changes are to:

- remove:
 - Harbour ISP Pty Ltd (ABN 44 154 752 968), and
 - MyRepublic Pty Ltd (ABN 75 603 909 815), and
- add:
 - Uniti Retail Pty Ltd (ACN 154 074 218), and
 - Superloop Limited (ACN 169 263 094).

We note Aussie Broadband Pty Ltd (ABN 29 132 090 192) is already a specified record keeper.

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 proposed changes to the Infrastructure Record Keeping Rules and Internet Activity Record Keeping Rules. Where relevant, we ask that you provide reasons in support of your view.

Questions for consultation:

1. Do you have any comments about the proposed record keeper changes to the Infrastructure Record Keeping Rules or Internet Activity Record Keeping Rules?
2. Is the proposed timeframe for implementation sufficient?
3. Is the commencement date appropriate?

5. Next steps

The ACCC will take into consideration all submissions to the consultation and position paper. Should substantial issues arise, further consultation may be undertaken either directly with respondents, or publicly.

Subject to consultation outcomes, the ACCC intends to issue the final versions of the Record Keeping Rules by December 2023.