



# Amendments to the Internet Activity record keeping and Reporting Rules (RKR)

**Decision paper**

September 2024

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Australian Competition and Consumer Commission

Land of the Ngunnawal people

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ACCC 09/24

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## Executive summary

The Australian Competition and Consumer Commission (the ACCC) has concluded its consultation relating to proposed amendments to the Internet Activity Record-Keeping and Reporting Rules (Internet Activity RKR).

Following public consultation, the ACCC has decided to include Starlink as a record-keeper for the Internet Activity RKR, given growth in use of satellite services, and to require other relevant record-keepers to report on non-NBN wholesale satellite services. Minor administrative amendments will also be made.

The Internet Activity RKR was accordingly amended on 24 September 2024. The changes will take effect for the reporting period 1 October 2024 to 31 December 2024 and all subsequent reporting periods.

## Introduction

The ACCC has the power to collect information from industry to undertake its telecommunications regulatory functions under the *Competition and Consumer Act 2010* (the CCA) and relevant telecommunications legislation. Section 151BU of the CCA provides that the ACCC may make record-keeping rules which require specified carriers or carriage service providers to keep and retain records and provide reports of information in those records to the ACCC.

The CCA does not provide an express power to amend the record-keeping rules. However, subsection 33(3) of the *Acts Interpretation Act 1901* provides that where an Act confers a power to make any instrument of a legislative or administrative character, the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.

Information gathered under the [Internet Activity RKR](#) includes the number of retail services in operation by type of access connection, wholesale speed tier and the volume of data downloaded across NBN, non-NBN fixed and mobile services.

The ACCC uses information and data from the record keeping rule to inform its reports to the Minister for Communications on competitive safeguards within the Australian telecommunications industry under subsection 151CL(1) of the Competition and Consumer Act 2010, and to assist with reporting on prices paid by consumers for telecommunications services under subsection 151CM(1)(a) of the Competition and Consumer Act 2010.

## Consultation process

On 8 August 2024 the ACCC published a consultation paper seeking stakeholders' views on proposed amendments to the Internet Activity RKR to reflect recent changes in the industry and to introduce a requirement for relevant record keepers to report on non-NBN wholesale satellite services.<sup>1</sup> The proposed changes were to:

- add Starlink Australia Pty Ltd (ACN 636 841 533) as a record keeper

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<sup>1</sup> ACCC, [Internet Activity Record Keeping Rules Consultation Paper](#), 8 August 2024.

- amend the requirement on the reporting of non-NBN fixed services to include details about wholesale services in operation for satellite access technology, and
- make other minor amendments to update references to the relevant ACCC Division responsible for administering the Internet Activity RKR.

Submissions to the consultation closed on 30 August 2024.

## Submissions

The ACCC received 6 submissions, from Starlink Internet Services Pte Ltd (Starlink), Aussie Broadband Limited (Aussie Broadband), TPG Telecom, NBN Co Limited (NBN Co), the Australian Communications Consumer Action Network (ACCAN) and Vocus.

### *Submissions on the proposed amendments*

Starlink submitted that it was seeking no changes on the substance of the proposed amendments. However, it noted that to reflect the structure and function of each entity within the Starlink group, the reporting obligations should be imposed on *Starlink Internet Services Pte. Ltd.* (ABN 44 658 489 582).<sup>2</sup>

TPG Telecom considered the proposed amendments to be reasonable and necessary for the Internet Activity report to be a “single source of truth on the state of the market”.<sup>3</sup> TPG Telecom also considered that accurate information on Starlink’s reach “can ensure future programs for regional, rural and remote areas are deployed in an effective manner”.<sup>4</sup>

NBN Co supported the addition of Starlink as a record keeper, arguing that the Internet Activity RKR should capture all access seekers, and include services supplied over non-NBN networks (both wholesale and retail).<sup>5</sup>

Further, NBN Co suggested that the information reported by *Low Earth Orbit* (LEO) satellite providers should be disaggregated to include the final use of the satellite connection (e.g. whether the services relate to fixed locations, mobility services or direct to mobile services), as greater granularity would allow the ACCC and stakeholders to monitor and analyse the level of demand for those segments as they develop over time.<sup>6</sup>

ACCAN also supported the proposed changes to the Internet Activity RKR, as it considered it was important that the ACCC produce reliable information and have greater oversight on LEOSat services.<sup>7</sup>

In contrast, Vocus expressed concerns that the proposed changes would reveal data from a single operator (Starlink) in the Internet Activity report and could be used by competitors to target the new market entrant. Vocus also considered that the disclosure of data on non-NBN satellite services could undermine investment in regional and remote areas.<sup>8</sup>

### *Other suggested amendments to the Internet Activity RKR*

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<sup>2</sup> Starlink submission, 25 August 2024, p 1.

<sup>3</sup> TPG Telecom submission, 27 August 2024, p 2.

<sup>4</sup> Ibid.

<sup>5</sup> NBN Co submission, 30 August 2024, p 1.

<sup>6</sup> NBN Co submission, 30 August 2024, p 2.

<sup>7</sup> ACCAN submission, 30 August 2024, p 1.

<sup>8</sup> Vocus submission, 30 August 2024, p 1.

Without expressing specific comments on the ACCC's proposed amendments, Aussie Broadband submitted its view that superfast broadband access service (SBAS) providers, such as Opticomm Pty Ltd and Redtrain Networks Pty Ltd, should be added as record keepers under the Internet Activity RKR. Aussie Broadband also submitted that the ACCC should introduce public reporting for non-NBN providers, similar to the NBN wholesale market indicators report, as this would enhance the ACCC's monitoring and further strengthen its regulatory oversight.

## ACCC decision

Following consideration of the submissions received, the ACCC has decided to amend the Internet Activity RKR as per the proposed amendments. **Starlink Internet Services Pte Ltd (ABN 44 658 489 582)** has been added as a new record keeper as it is the relevant Starlink subsidiary that should be subject to obligations under the Rules.

The ACCC considers that:

- the inclusion of Starlink as a record keeper with record-keeping and reporting obligations will provide the ACCC with a more accurate picture of the market for retail and wholesale broadband services in Australia, and
- the requirement for relevant record keepers to report on both wholesale and retail non-NBN satellite services will allow the ACCC to monitor developments in both markets.

Those amendments will assist the ACCC in administering a range of regulatory functions and responsibilities under Part XIB and Part XIC of the CCA, including its annual requirements to report on competitive safeguards in the Australian telecommunications industry and the prices paid by consumers for telecommunications services, as required by the CCA.

The ACCC notes Vocus' arguments that the addition of Starlink as a record keeper may be detrimental to Starlink and that the release of commercially sensitive data could undermine investment in regional and remote markets. However, the ACCC notes that the record-keeping and reporting obligations do not require the disclosure of information apart from reports to the ACCC. The ACCC also notes that the information collected under the record-keeping rules is protected information under section 155AAA of the CCA with stringent requirements for the disclosure of such information set out in Division 6 of Part XIB of the CCA.

The ACCC also notes Aussie Broadband's submission that significant SBAS providers should be added as record keepers, and its request for an ACCC market indicators report that applies to non-NBN providers. The ACCC regularly monitors the telecommunications market for key developments and can add record keepers when appropriate.

We also acknowledge NBN Co's suggestion for a reporting requirement on satellite operators for the breakdown of LEOSat services, including fixed services, mobility services (e.g. roaming, land mobility and maritime) and mobile services (e.g. direct to handset). We do not propose to add this level of disaggregation at this time but will continue to monitor developments in these markets.

The amending instrument – the *Internet Activity Record-Keeping and Reporting Amendment Rules 2024 (No. 1)* – and a consolidated version of the Internet Activity RKR (including the amendments), together with ancillary materials, are available on the [ACCC website](#). The

amendments will take effect for the reporting period 1 October 2024 to 31 December 2024 and all subsequent reporting periods.