

31 July 2025

To the Australian Competition and Consumer Commission

By email: rkrinbox@accc.gov.au

RE: Record Keeping Rules Review 2025

The Internet Association of Australia Ltd (**IAA**) thanks the Australian Competition and Consumer Commission (**ACCC**) for the opportunity to respond to the consultation on the Record Keeping Rules Review 2025 (**Review**) and accompanying Consultation Paper.

IAA is a member-based association representing Australia's Internet community. Our membership is largely comprised of small to medium sized Internet service providers (**ISPs**). However, some of our members are also larger telecommunications providers, and are included in the lists of providers proposed to be subject to the new Retail Telecommunications Record Keeping Rules (**Retail RKR**) and the Wholesale and Networks Record Keeping Rules (**Wholesale RKR**). Furthermore, as a not-for-profit association invested in the public benefit of the internet, our response to the ACCC's Review is in the interest in this public benefit, and the telecommunications policies and regulatory framework that support the internet.

From the outset, we express our support for the ACCC in its regulatory functions to ensure fair competition across the telecommunications sector and appreciate that effective reporting is required to ensure the ACCC can fulfil its purpose. We are therefore interested in the Review which proposes a substantial amendment to the record keeping arrangements currently in place in the sector. Overall, we support the ACCC in seeking to consolidate the various record keeping rules and agree that changes in technology, service operation and market operations necessitates streamlined set of rules. We also support, in principle, the ACCC in seeking mechanisms that will ensure it has better visibility into market dynamics as is necessary to implement accurate, data-driven telecommunications competition policy.

However, we are also greatly concerned about the potential overreach in the information being sought which raises both privacy risks for individual end users, as well as providing the ACCC too much access to what may be commercially sensitive B2B relationships. We are also concerned about regulatory burden as providers will likely have to develop new systems and processes for data mapping and processing. Furthermore, the proposed consultation timeline does not seem to provide sufficient time to consider stakeholder feedback and engage in further consultation prior to the drafting of the proposed instruments, particularly as we consider that it is necessary for the ACCC to conduct, and publish the results of a privacy impact assessment and industry impact assessment in relation to its proposed changes, prior to drafting any instruments.

OUR RESPONSE

Question 1: To what extent do stakeholders support the ACCC's proposed changes to record-keeping and reporting obligations discussed in this consultation paper? Outline key reasons for your position, including benefits of the proposed changes and ACCC reporting.

Question 7: Do stakeholders have any other comments they would like to raise with the ACCC about the proposed changes to record keeping and reporting obligations?

IAA expresses our partial support for the proposed changes to the record keeping and reporting obligations as proposed by the ACCC. While we support the proposed objectives and appreciate the issues the ACCC seeks to address in relation to improved market transparency, we raise the below concerns:

RETAIL RKR

Privacy

We understand that the ACCC proposes to collect granular, customer-level data via the proposed Retail RKR which would include pricing of individual contracts (post-discount), as well as the addresses for each service. While we appreciate the intent behind this level of reporting, this seems to be an overreach and there is not sufficient evidence to suggest there are adequate privacy controls in place. The huge volume of data that the ACCC proposes to collect also risks becoming a 'honeypot' for malicious actors, and raises concerns for significantly increasing the consequences of a potential data breach. We are especially concerned as the ACCC does not propose that service providers aggregate data sets for the Retail RKR.

We therefore strongly recommend that the ACCC conducts a formal Privacy Impact Assessment as soon as possible, and publish results and evidence that strong encryption, access controls and other privacy measures will be implemented to address the privacy risks. We consider it imperative this is completed prior to further work being undertaken to introduce the new record keeping regulations.

Geographic Profiling

The proposal for reporting on detailed insights into service pricing, technology type and service address also creates a risk of geographic profiling which becomes exacerbated by the risk of inadvertent identification of individuals with other data sets, particularly in low-density and/or regional and rural areas. This is likely to result in greater inadvertent adverse consequences, particularly for low-income communities.

We appreciate that the ACCC seeks to decrease the regulatory burden by allowing providers to collect and report essentially raw datasets as aggregation is likely to be more resource intensive and require new systems and processes. However, we note providers will still have to prepare records in a standardised format as requested by the ACCC. Additionally, the datasets proposed for collection are likely to be currently maintained in separate internal systems such as billing, CRM, and network provisioning. As such, providers will still have to undertake significant data mapping and reconciliation, especially for smaller providers that do not have automated reporting capabilities.

Thus, we posit that the ACCC should reconsider the requirement to report full-service addresses. Instead, we recommend adopting a broader geographic unit, depending on the population density that allows robust market analysis while also ensuring consumer privacy.

Reporting Timeframe

We note that the 6-weeks timing proposed for collating and formatting data for reporting to the ACCC is too short. We further note that our above recommendation that service providers aggregate service-address level data will increase the processing required. In addition, as noted above, we consider that for some providers will not have integrated systems and require manual data matching that not only increase compliance burden, but also the risk of error, especially if such resource intensive work is done in a short period. As such, we request that the ACCC reconsider the proposed timeframe and adopt a more practical minimum of 12 weeks from the reference date and reporting date.

Record Keepers

We appreciate the ACCC's intent behind expanding the number of service providers for the Retail RKR for a more comprehensive look at the market. Furthermore, we support the ACCC's proposal to maintain a list of record keepers who are 'in scope', rather than imposing the Retail RKR based on a strict threshold or class of service providers. However, we believe it is important that the instrument is clear on what considerations are had to determine whether a provider should be considered 'in scope' for transparency, consistent decision making and ensuring sound regulatory governance.

We understand that one of the criteria may be meeting a threshold of least 30,000 SIOs. While we appreciate that the 30,000 SIOs threshold is one that is often used across telecommunications regulation and therefore reduces confusion, there are other factors that should also be considered when determining whether a provider should be a record keeper. These factors may include where providers with under 30,000 SIOs have a significant market share in a specific geographic region, or whether a provider has a direct relationship with end-users or the use of aggregation or white-label models, where it may be more appropriate for the upstream provider

Moreover, we understand that the ACCC will review its list of record keepers, and name additional record keepers as the market evolves, and we consider it important that it does so. However, we strongly recommend that the Retail RKR instrument also clearly and explicitly sets out provisions governing the circumstances of when and how a provider is named a record keeper, including (but not limited to) written notifications, allowing the provider a chance to make submissions as to why it should not be a record keeper, and sufficient grace period for compliance, in addition to the above-mentioned considerations the ACCC should have when deciding to name a record keeper.

WHOLESALE RKR

Commercially Sensitive Information

We are concerned that the types of data proposed for reporting under the Wholesale RKR will result in the potential reveal of commercially sensitive information. It is not clear how the data obtained via the Retail RKR and Wholesale RKR will be published, and thus we are concerned there is risk that the information may result in potential for reverse engineering that will allow competitors to gain indirect access to commercial data. While we support the ACCC in having access to important information and clear market relationships that will allow it to assess market dynamics and

imbalances, it is important this is appropriately balanced to preserve commercial confidentiality and allow providers to operate competitively.

Record Keepers

Similar to our points raised in relation to record keepers named under the Retail RKR, we recommend that the Wholesale RKR instrument sets out explicit provisions governing the processes and considerations surrounding how record keepers are determined.

CONCLUSION

Once again, IAA appreciates the opportunity to contribute to the Record Keeping Rules Review 2025. Again, we express our support for the work of the ACCC in regulating fair competition in the telecommunications market, and recognise record keeping and reporting to be critical components to ensuring a thriving and competitive sector. We are thus committed to working with the ACCC, other industry players and stakeholders in the development of a new record keeping regulatory regime that is balanced, efficient and fit-for-purpose.

ABOUT THE INTERNET ASSOCIATION OF AUSTRALIA

The Internet Association of Australia (IAA) is a not-for-profit member-based association representing the Internet community. Founded in 1995, as the Western Australian Internet Association (WAIA), the Association changed its name in early 2016 to better reflect our national membership and growth.

Our members comprise industry professionals, corporations, and affiliate organisations. IAA provides a range of services and resources for members and supports the development of the Internet industry both within Australia and internationally. Providing technical services as well as social and professional development events, IAA aims to provide services and resources that our members need.

IAA is also a licenced telecommunications carrier and provides the IX-Australia service to Corporate and Affiliate members on a not-for-profit basis. It is the longest running carrier neutral Internet Exchange in Australia. Spanning seven states and territories, IAA operates over 30 points of presence and operates the New Zealand Internet Exchange on behalf of NZIX Inc in New Zealand.

Yours faithfully,
Internet Association of Australia