

Consumer

Protection of Communications and affairs and personal particulars (Part 13 of the [Telco Act](#))

- Carriers, CSPs, number-database operators, emergency call persons and their respective associates must protect the confidentiality of information that relates to:
 - the contents of communications that have been, or are being, carried by carriers or carriage service providers;
 - carriage services supplied by carriers and carriage service providers; and
 - the affairs or personal particulars of other persons.
- The disclosure or use of protected information is authorised in limited circumstances (for example, disclosure or use for purposes relating to the enforcement of the criminal law). See also exceptions in Pt 4 of [Telecommunications Regulations 2021](#).
- An authorised recipient of protected information may only disclose or use the information for an authorised purpose.
- Certain record-keeping and reporting requirements are imposed in relation to authorised disclosures or uses of information

Customer Authentication Rules

- [Customer Authentication Determination](#): Detailed Customer Authentication required for high risk interactions.
- [Telecommunications \(Mobile Number Pre-Porting Additional Identity Verification\) Industry Standard 2020](#) steps before porting a mobile number.
- Telcos receiving a ported mobile number to prepaid service: [Telecommunications \(Service Provider – Identity Checks for Prepaid Mobile Carriage Services\) Determination 2017](#)

Consumer data rights (Part 1VD of the [Competition and Consumer Act 2010](#)) (being implemented)

- Applies to a public mobile telecommunications service or a fixed internet service accessible online but not a large-scale internet account.
- Required Consumer Data and Required Product data must be held for sharing as directed or authorized by customer.
- The customer must have control over data and consents via a consumer dashboard.

Mobile Roaming Regulation

- [Telecommunications Service Provider \(International Mobile Roaming\) Determination 2019](#) requires:
 - Obligation to notify consumers of charging information on activation of mobile roaming.
 - usage notification alerts required at 50% and 85% of the included value of an IMR value pack
 - AUD 1.00 max that may be charged to a consumer declining the supply of IMR services

C661:2022 REDUCING SCAM CALLS AND SCAM SMS

- tracing and reporting measures
- identification, tracing, and blocking of numbers associated with Scam SMS.
- co-operation and information-sharing to assist in the identification of scammers
- blocking and enforcement action.

Online Safety ([Online Safety Act 2021](#)).Scheme to:

- Promote online safety for Australians
- Administer complaints system for cyber-bullying material targeted at an Australian child; and
- Administer complaints system for cyber-abuse material targeted at an Australian adult; and
- Administer complaints and objections system for non-consensual sharing of intimate images; and
- Administering online content scheme
- May approve codes or makes standards for handing of online content by online services and device supply industries.
- [Basic Online Safety Expectations \(BOSE\)](#)

Operational

Carriers

Obligations

- Carriers are obliged to:
- give other carriers access to facilities.
 - give other carriers access to information about the operation of networks.
 - Other carriers' access to transmission towers and underground facilities designed to hold lines.
- (Facilities Access regime, Part 5 Schedule 1 of the [Telco Act](#) and the [Facilities Access Code](#))
- keep records regarding, inspect and remediate facilities.
 - Obtain interconnection from other carriers for the purpose of achieving any-to-any connectivity.
 - If Telstra, to comply with a functional separation undertaking. (Schedule 1 of the [Telco Act](#))
 - Legislative instruments covering work practices, processes, installation, repair, performance, government charges and more
 - Service providers determinations impose service practices and obligations
 - [Telco Industry Register of Codes and Standards](#) at ACMA and Communications Alliance [Codes, Guidelines, Standards, Specifications and Industry Guidance Notes.](#))
 - To supply declared services on the terms the declaration (Division 2 of Part XIC of the [Competition and Consumer Act 2010](#))

Powers and Immunities

- To supply services subject to a **Standard Form of Agreement** (failing agreement between the parties) (part 23 of the [Telco Act](#))
- If you are an operator with less than 200 residential customers, to supply a superfast broadband service, unregulated ([Telecommunications \(Superfast Broadband Network Class Exemption\) Determination 2020](#))

Use of land and buildings

- Carriers have a right to:
- inspect land
 - install a low impact facility on the land
 - Maintain a facility situated on land
 - If required, seek a facility installation permit.
- Subject to conditions requiring:
- doing as little damage as practicable;
 - acting in accordance with good engineering practice;
 - complying with recognised industry standards;
 - complying with conditions specified in the regulations;
 - complying with conditions specified in a Ministerial Code of Practice;
 - complying with conditions specified in a facility installation permit;
 - giving notice to the owner of land.
- Schedule 3 of the [Telco Act](#), [Telecommunications \(Low Impact Facility Determination 2018](#)., [Telecommunications Code of Practice](#)
- Land access disputes are subject to resolution by the Telecommunications Industry Ombudsman. ([Telecommunications Regulations](#) s56)

NBN Co

- Ownership, services that may be supplied, wholesale only supply controlled by the [National Broadband Network Companies Act 2011](#).
- Part XIC of the [Competition of Consumer Act 2010](#), The [Telecommunications \(Deemed Functional Separation Undertaking\) Determination 2020](#), and the [Telecommunications \(Superfast Broadband Network Class Exemption\) Determination 2020](#)

Numbering

- Carriers and CSPs must:
- Comply with the [Telecommunications Numbering Plan 2015](#)
 - Ensure number portability codes: [Inbound Number Portability](#), [Local Number Portability](#), [Mobile Number Portability](#)

Telecommunications (Emergency Call Service) Determination 2019

- Carriers and CSPs must:
- Maintain emergency call networks and facilities
 - Advise dependent services if there is network outage
 - Welfare check on people who have tried to call during network outage
 - Monitor disruptive and non-genuine calls and attempt to stop them.
 - Implement communications when disruptions happen

Operational

Carriage Service Providers

- If providing a **Standard Telephone Service**, an obligation to:
- Provide certain operator services to end-users.
 - Directory assistance services
 - Provide Itemized billing.
 - Comply with the priority assistance industry code or refer residential customers to a provider that complies with the priority assistance code.
- Provide information to support an integrated number data base (IPND). (Schedule 2 of the [Telco Act](#), [Telecommunications Integrated Public Number Database Scheme 2017](#), [Industry Guideline G619:2017 IPND Data](#))

Use of Radio Spectrum

- Use and management as determined by ACMA and adjusted by the Five-Year Spectrum outlook.
 - Conditions for emergency use (section 49 of the [Radcoms Act](#))
 - Operation of device authorized by a spectrum license (part 3.2 of [Radcoms Act](#))
 - An apparatus licence under part 3.3 of the [Radcoms Act](#).
 - A class license under part 3.4 of the [Radcoms Act](#). Most important is the LIPD .class license +- 18 other class licenses including communications with Space objects.
 - On premises use of WiFi permitted by [Telecommunications \(Carrier Licence and Nominated Carrier Declaration Exemption—Wireless Network Unit\) Determination 2019](#)
- Device labelling: :
- Radio communications devices
 - EMC compliance

Satellite registration obligations

- Operators must register:
- Australian space objects associated with satellite operators who have successfully applied to ACMA seeking to achieve access to frequencies through an **International Telecommunications Union** process
 - Space objects owned, controlled or operated by foreign business entities where ACMA has checked favourable ITU status
- The [Radiocommunications \(Communication with Space Object\) Class Licence 2015](#) lists class licensed frequency ranges and authorises the operation of associated earth stations.

Service supply obligations (+ an industry levies)

- Statutory infrastructure supplier Scheme (Part 19 of the [Telco Act](#)): NBN is the default supplier other suppliers are the default supplier in nominate areas.
- Universal Service Obligation supported by the Telecommunications Industry Levy. (Part 2 of Division 2 of the [Telecommunications \(Consumer Protection and Service Standards\) Act 1999](#))
- Regional Broadband Scheme: carriers must pay a fixed monthly charge per connection to support rural and regional services calculated under the [Telecommunications \(Regional Broadband Scheme\) Charge Act 2020](#)

Security of Critical Infrastructure

- Carriers and Carriage service providers must:
 - Providing "interest and control information" and "operator information"
 - Mandatory reporting of serious cyber incidents ([Telecommunications \(Carrier Licence Conditions—Security Information\) Declaration 2022](#) and the [Telecommunications \(Carriage Service Provider—Security Information\) Determination 2022](#))
- Entities deemed Systems of National Significance must:
 - Statutory incident response.
 - Secretary may, require the responsible entity to engage in a cyber security exercise, undertake a vulnerability assessment, undertake periodic or event-based reporting of system information and/or installation of system information software. (Part 2C of the [Security of Critical Infrastructure Act 2018](#))

Content service Providers

- Subject to "service provider rules" in Schedule 2 of the [Telco Act](#).
- Not subject to parts 13,14 or 15 of the [Telco Act](#) unless they also provide a carriage service.
- Rules made under the Broadcasting services Act that largely deal with regulating gambling advertising: [Broadcasting Services \(Online Content Service Provider Rules\) 2018](#).

National Security and Law Enforcement

Obligation to Co-operate with law Enforcement and National Security (section 313 (3) of the [Telco Act](#))

- The ACMA, carriers and carriage service providers must give the authorities such help as is reasonably necessary for the purposes of:
 - (a) enforcing the criminal law and laws imposing pecuniary penalties; and
 - (b) protecting the public revenue; and
 - (c) safeguarding national security. (A carriage service provider may suspend the supply of a carriage service in an emergency if requested to do so by a senior police officer.
- NB this power supports inter alia access to metadata and blocking of illegal and offensive content. (see [Guidelines for the use of section 313\(3\) of the Telecommunications Act 1997 by government agencies for the lawful disruption of access to online services](#))

Obligation to Retain Metadata (Part 5.1A of the [Telecommunications \(interception and Access\) Act 1979](#))

- Carriers, carriage service providers and internet service providers (under the [Online Safety Act 2021](#)) must:
- Retain for two years, subscriber, source, destination, date, time, duration, type and location information.
 - Provide the information to nominate law enforcement and national security agencies on written request.
 - Applications for data relating to professional journalists is subject to the Journalist information Warrant framework (see Par4-1 Division 4C)

Interception obligations ([Telecommunications \(Interception and Access\) Act 1979](#))

- Carriers and carriage service providers must be capable of intercepting messages (Part 5.3) and can be subject to:
- Warrants authorising the ASIO to intercept telecommunications
 - Warrants authorising law enforcement agencies to intercept telecommunications
 - Preserving stored communications
 - Permitted access to telecommunications data
 - International production orders (when made law)
- The power to apply for warrants (generally requiring a serious offence punishable by 7 years or more). Associated requirements include:
- Evidentiary certificates
 - Storage and access to information obtained.
 - Keeping of records
 - Supervision and reporting.
- Carrier's must submit annually an **Interception Capability Plan** (Part 5.4)

Telecommunications Security Sector Reform Obligations (Part 14 of the [Telco Act](#))

- Carriers and carriage service providers have a duty to do their best to protect telecommunications networks and facilities from unauthorised interference, or unauthorised access, for the purposes of security and are subject to Ministerial discretionary powers
- Carriers and certain carriage service providers must notify changes to telecommunications services or telecommunications systems that are likely to have a material adverse effect on their capacity to comply with this duty.

System access and data gathering

- Designated Communications Providers** may be subject to:
- Technical Assistance Requests (TAR)
 - Technical Assistance Notices (TAN)
 - Technical Capability Notices (TCN)
- (Part 15 of the [Telco Act](#))

Other generally applicable security law

- The [Surveillance Devices Act 2004](#) (CW)
 - Data disruption warrants
 - Network activity warrants
 - Persons with knowledge of a computer to assist (s64A, see also 64B)
- The Listening devices legislation in each state.
- The [Workplace Surveillance Act 2005](#) (NSW)
- The [Australian Security Intelligence Organisation Act](#) particularly 34AAD: Person with knowledge of a computer or a data storage device to assist access to data
- [Crimes Act 2014](#): particularly Part IAAC—Account takeover warrants
- State and Territory Listening Devices and Surveillance laws.

Australian Telecommunications Regulation

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- Disclaimer: This is a high-level overview only. Much detail is missing.
- Please advise any corrections/developments that you notice o patrick@patrickfair.com
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Definitions

Participant	Summary meaning	Source
Carrier	Owns or operates network or radio transmission equipment. Must hold a carriers licence.	S 42 of the Telco Act makes it unlawful to use a network unit to supply a carriage service to the public without a carrier's license.
Carriage Service Provider (CSP)	Resells carriage services. CSP definition include Carriers.	S87 of the Telco Act says a CSP provides a listed carrier service to the public using a network unit owned or authorized by a Carrier.
Content Service provider	Uses a carriage service to provide a broadcasting service, video on-demand, online gaming or education.	S97 of the Telco Act says a Content service provider provides a content service to the public.
Designated Communications provider	Carriers, CSPs, electronic service providers, facility, equipment, component, software or service provider (including manufacturers, suppliers, support, install and maintenance) associated with communications networks, components and customer equipment.	s317C of the Telco Act has a table describing Designated Communications providers in detail.
NBN Co.	National Broadband Network Co and its related entities	National Broadband Network Companies Act 2011 .
Standard Telephone Services	A customer can use the service to communicate with any other customer on the same services even connected to different networks.	See Telecommunications (Consumer Protection and Service Standards) Act 1999 and Telecommunications Consumer Protection Code.