EXPLANATORY STATEMENT

Issued by the Authority of the Minister for Communications, Information Technology and the Arts

Telecommunications Amendment (Integrated Public Number Database) Act 2006

Proclamation

Section 2 of the Telecommunications Amendment (Integrated Public Number Database) Act 2006 (the Act) provides that the provisions in Schedule 1 to the Act commence on a single day to be fixed by Proclamation. However, if any of the provisions are not proclaimed within the period of 6 months beginning on the day on which the Act received the Royal Assent, they commence on the first day after the end of that period.

The Act received the Royal Assent on 8 December 2006.

The Proclamation fixes 15 May 2007 as the day on which Schedule 1 to the Act commences.

Schedule 1 to the Act amends the Telecommunications Act 1997 (the Telecommunications Act) to provide for information contained in the integrated public number database (IPND) to be used in connection with the conduct of research that is considered to be in the public interest, whilst at the same time providing additional safeguards to ensure that IPND information is only disclosed and used for the purposes specified in Part 13 of the Telecommunications Act.

The IPND is an industry-wide database of all residential and business phone numbers (both listed and unlisted) and associated customer information, including name and address information. The IPND was established and is maintained by Telstra Corporation Limited as a condition of the Carrier Licence Conditions (Telstra Corporation Limited) Declaration 1997.

Schedule 1 to the Act inserts a definition of ‘public number directory’ into the Telecommunications Act. By inserting this definition, Schedule 1 intends to prevent IPND information being used directly for a range of purposes not authorised by the Act, such as the production of debt collection and credit checking tools, data cleansing tools and services, identity verification tools and services and marketing databases and marketing lists.

Schedule 1 to the Act also introduces a new category of access to information contained in the IPND. For the first time, people conducting research which the Minister for Communications, Information Technology and the Arts (the Minister) considers to be in the public interest will be able to apply to access IPND information, for the purpose of conducting this research. The types of research which the Minister considers to be in the public interest are specified in a legislative instrument.
Schedule 1 to the Act also requires the Australian Communications and Media Authority (ACMA) to make a scheme for the granting of authorisations for access to IPND information for purposes connected with the publication and maintenance of a public number directory and the conduct of research of a kind the Minister considers to be in the public interest. The scheme enables ACMA to develop the processes and procedures for receiving, considering and deciding applications for authorisations (including revoking or varying authorisations, imposing conditions on authorisations and undertaking any ongoing monitoring that may be required in relation to the scheme) and to adjust these processes if necessary.

The amendments also contain new secondary use and disclosure offence and penalty provisions. They make it a criminal offence to breach a condition of authorisation, or to disclose and use data for a purpose other than the purpose authorised by ACMA. These secondary disclosure provisions will apply to persons holding the authorisation from ACMA. In the case of researchers, the secondary disclosure provisions will also apply to any person to whom they disclose the IPND information in the course of conducting research. Prior to these amendments to the Telecommunications Act, these users were not able to be prosecuted as they were not considered ‘eligible persons’ for the purposes of Part 13 of the Telecommunications Act.

The commencement of the provisions in Schedule 1 to the Act was delayed so that, relying on subsection 4(1) of the Acts Interpretation Act 1901, the necessary legislative instruments provided for by the amendments in Schedule 1 could be made before, and commence at the same time as, the provisions in Schedule 1 to the Act commence.

The Proclamation fixes 15 May 2007 as the day for the commencement of the provisions in Schedule 1 to the Act because it is anticipated that the necessary legislative instruments will be made by that date.

The accompanying Proclamation is a legislative instrument for the purposes of the Legislative Instruments Act 2003 (see paragraph 6(e) of that Act), but is not subject to disallowance (see item 42 in the table in subsection 44(2) of that Act).

Consultation on the Proclamation was undertaken with ACMA to ensure that ACMA’s scheme would commence at the same time as Schedule 1 to the Act.