

# Privacy and your telephone service

This fact sheet looks at telecommunications privacy issues including the disclosure of an unlisted telephone number without customer permission, the making of nuisance calls, calls being recorded without customer consent, unwanted telemarketing calls, and the use of calling number display—the sending of your telephone number to the called party. It also examines the legislative framework covering privacy issues in telecommunications.

## The legislative framework

Privacy in telecommunications is covered by three main pieces of legislation.

### *Privacy Act 1988*

Privacy laws are set out in the [Privacy Act 1988](#), which includes the National Privacy Principles (NPPs). The NPPs govern the handling of personal information in the private sector including its collection, use and disclosure. They aim to ensure that organisations that hold personal information about people handle that information responsibly, as well as ensuring that people are aware of who holds their information, why and how it is used. They also seek to ensure that consumers retain control over how their personal information is handled.

The NPPs require that an organisation may use or disclose personal information only for the primary purpose for which it was collected. If an organisation proposes to use or disclose the data for a secondary purpose, then generally it may do so only if the secondary purpose is related to the main reason the information was originally collected and the individual would reasonably expect it, or the consent of the individual consumer is obtained. The [NPPs](#) came into effect on 21 December 2001.

There is also an independent statutory office—the [Office of the Federal Privacy Commissioner](#) which has responsibilities under the Privacy Act. Its responsibilities include protection of individuals' personal information.

### *Telecommunications Act 1997*

The [Telecommunications Act 1997](#) (the Telecommunications Act) contains provisions dealing with the privacy of telecommunications information held by carriers, carriage service providers and others e.g. emergency call persons.

Part 6 of the Telecommunications Act provides for the development of industry codes and standards for consumer protection and privacy. The Federal Privacy Commissioner must be consulted on most codes. The codes are voluntary in the first instance, but breaches can be enforced by the ACMA.

Part 13 of the Telecommunications Act prohibits disclosure of telecommunications information unless under specified exceptions.

### *Telecommunications (Interception and Access) Act 1979*

The [Telecommunications \(Interception and Access\) Act 1979](#) regulates the access to telecommunications information for law enforcement and national security purposes. The disclosure of non-content telecommunications information is through an authorisation process monitored by the Attorney's-General Department. Warrants are required for disclosure of telecommunications content.

More information is available on the ACMA fact sheet on [Disclosure requirements under Part 13 of the Telecommunications Act 1997](#).

## Disclosure of unlisted numbers

An unlisted number (or 'silent line') provides you with a way to increase your privacy. Customer information for an unlisted number is not published in print or electronic phone directories, and is not available through operator-assisted directory services such as 1223. However, having an unlisted number may not prevent you from receiving unwanted calls. Some organisations use random dialling techniques to conduct telemarketing campaigns. You should also be aware that when you or other family members disclose your unlisted number on application forms and competition entries or to business and trades people, this allows for disclosure of your unlisted number to others.

## Disclosure of information for billing purposes

If you or a household member uses another telephone company for a service such as long distance calls or makes calls to 190 information services carried by another company, your usual telephone company is obliged to provide sufficient information to the other

company for billing purposes. This applies to both listed and unlisted numbers. The second company must protect your unlisted number when handling your information.

### **Dealing with unwanted or life threatening calls**

An unwelcome call is a call of a menacing, offensive or harassing nature, but which is not currently a life-threatening call, that may be intentional or non-intentional on the part of the caller.

A life-threatening call is one that is connected with an event actually or potentially perilous to human life. Examples include where a person is threatened with serious injury, a bomb threat or an extortion demand. Matters involving an imminent threat to a person's life or health should be reported directly to police using the Triple Zero '000' emergency call service.

A separate ACMA fact sheet covers [Dealing with unwanted or life threatening calls](#).

### **Recorded telephone conversations**

There are times when telephone companies need to monitor the quality of transmission on the telecommunications network for maintenance purposes. When this monitoring is necessary, strict guidelines must be followed to protect customer privacy. These guidelines have been developed by, and are available from, the [Communications Alliance Ltd](#) (formerly ACIF). If you need more information about this monitoring, contact the telephone company providing your service.

The regulation recording of telephone conversations is complex and is the responsibility of the federal Attorney-General's Department.

### **Unwanted telemarketing calls**

Telemarketing is the practice of calling potential customers to sell services or products, or to conduct fundraising, polling or market research.

If you wish to opt out of receiving certain telemarketing calls, you can register your number on the Do Not Call Register (the register). The ACMA oversees compliance with the register.

It is free to place your number on the register. You can list up to three fixed line or mobile telephone numbers, provided that these numbers are used primarily for private or domestic purposes. Fax numbers are not currently eligible to be registered.

To register, visit [www.donotcall.gov.au](http://www.donotcall.gov.au) or telephone 1300 792 958. It is important to note that registration may take up to 30 days to take effect.

Generally it is against the law to make unsolicited calls to a telephone number listed on the register. This is subject to some limited exemptions.

Any business that calls a number on the register, or arranges for a call to be made to a number on the register, may be in breach of the legislation and could face penalties.

The ACMA has also determined a national industry standard for telemarketing and research calls. Together, the register and industry standard are designed to regulate unsolicited calls in Australia.

If you receive unsolicited telemarketing calls after registering your number, you can lodge a complaint via the online complaint form at [www.donotcall.gov.au](http://www.donotcall.gov.au) or by calling 1300 792 958.

The ACMA has also produced a number of [information sheets](#) covering various aspects of the register.

### **Calling Number Display**

Calling number display (CND) is a service that enables you to view the number of an incoming caller displayed on compatible handsets or CND units attached to the phone. CND is covered in a separate ACMA fact sheet.

### **Emergency call services and privacy**

Special arrangements apply to disclosing your telephone number in relation to calls made to the Triple Zero '000' emergency call service. When you call an emergency call service number, you will be connected by an operator to the emergency service organisation (police, fire brigade or ambulance). Your details will be made available to the emergency call service operator and the emergency service organisation where it is available, regardless of whether you have a 'silent' number. This allows the operator to contact the most appropriate emergency service organisation, confirm the location of the emergency and ring you back if the connection is broken.

### **The complaint process**

If you believe your privacy has been breached by a telephone company, the first step is to try to resolve the matter with the telephone company concerned. You are entitled to have your complaint to a telecommunications company dealt with promptly. If the matter is not resolved, you can contact the [Telecommunications Industry Ombudsman](#) (TIO).

The TIO provides a dispute resolution scheme for residential and small business customers of telephone companies. The scheme extends to privacy issues and has been established to provide independent, just, informal and speedy resolution of complaints and disputes. It is an office of last resort that provides its services free of charge to consumers who are not satisfied after initially taking up the problem with their telephone company.

Tel: 1800 062 058 or (03) 8600 8700  
TTY: 1800 675 692

There is also an ACMA fact sheet on [Resolving your telecommunications complaints](#).

## **More information**

[Office of the Federal Privacy Commissioner](#)

Tel 1300 363 992

TTY (free call) 1800 620 241

[Attorney-General's Department](#)

Central Office

3-5 National Circuit

BARTON ACT 2600

Tel: (02) 6141 6666

*Please note: this document is intended as a guide only and should not be relied on as legal advice or regarded as a substitute for legal advice in individual cases.*