



# Register of Critical Infrastructure Assets Guidance – Telecommunications sector

## Introduction

A secure telecommunications network is critical for the functioning of our modern society and economy. The sector constitutes 2 per cent of Australia's Gross Domestic Product (GDP) and employs 1 per cent of the Australian workforce. It critically enables 43 per cent of GDP<sup>1</sup>, facilitating efficient activity in most other sectors of the economy, although this is likely an underestimate.

The importance of ready access to telecommunications was most acutely demonstrated during the COVID 19 pandemic. Without access to telecommunications services, Australians would not have been able to access many goods and services, interact with government agencies, work or study from home, or stay in touch with friends and family.

Consequently, it is critically important to Australia's national interest to secure the telecommunications assets in Australia. In large part, this is achieved through the provisions in the *Telecommunications Act 1997* (the Tel Act). Beyond these provisions, the Government has decided it is necessary to further secure Australia's critical infrastructure. Given the existing positive security obligations within the Tel Act for resilience and security<sup>2</sup>, the Government has decided to introduce two new instruments to impose certain reporting obligations on carriers and eligible carriage service providers (CSPs). These two instruments are:

- [Telecommunications \(Carrier License Conditions–Security Information\) Declaration 2022](#); and
- [Telecommunications \(Carriage Service Provider– Security Information\) Determination 2022](#).

Equivalent obligations apply to critical assets of other sectors as defined in the *Security of Critical Infrastructure Act 2018*. The Government has also flagged that further reform to the telecommunications security framework will be considered in the coming months.

## What is the obligation?

The instruments require carriers and eligible CSPs to provide operational information about their critical telecommunications assets to the Home Affairs Secretary. The obligation to provide information about existing assets commences on 7 October 2022 for current carriers and eligible CSPs. Information about critical telecommunications assets for any new carriers or eligible CSPs after that date must be provided within 30 days of the obligation commencing (6 November 2022). The form to *provide* information is available [here](#)<sup>3</sup>.

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<sup>1</sup> Figure from Bureau of Communications, Arts and Regional Research. This is measured by businesses spending at least 5% of their costs on telecommunications, noting that telecommunications prices have been declining for many decades, and that many business computing applications rely on being continuously connected to the internet

<sup>2</sup> See s.313(1),(1A),(2),(2A),(3) 7 (4) for law enforcement & national security obligations; s.313(4A) &(4B) for disaster response and resilience

<sup>3</sup> See <https://www.cisc.gov.au/resources-and-contact-information/forms/re-registration>

Carriers and eligible CSPs must also provide updated information when operational information previously provided becomes incorrect or incomplete, or the reporting entity for an asset change. These updates must be made within 30 days of the event occurring. The form to *notify changes* is available [here](#)<sup>4</sup>.

## What operational information is required?<sup>5</sup>

Carriers and eligible CSPs are encouraged to provide as much information and context as possible to inform the Government's understanding of the operation of, and risks associated with, critical telecommunications assets. Information required includes:

- *Location of an asset.* A carrier could, for example, provide a geospatial file showing the general locations of its backhaul network and dedicated equipment. An eligible CSP could, for example, provide the street address for data centres or where critical operations software is managed.
- *Operator of the asset or part of the asset.* Carriers and eligible CSPs should provide their full legal names, Australian Business Number (ABN) or international equivalent, head office address, the country in which they were incorporated and the full name and citizenship of the entity's Chief Executive Officer. Carriers and eligible CSPs should also provide a description of the arrangements under which they operate the asset.
- *Maintained Data.* Carriers and eligible CSPs should provide a description of the arrangements, if any, under which a third-party maintains data relating to the asset. This should include the kind of data that is being maintained by the third-party and the purpose of the data.

### How do I identify the assets to report?

A single critical infrastructure asset may be comprised of multiple component parts such as premises, computers, and data, which function together as a system or network.

When considering the components that comprise the critical infrastructure asset, the carrier or eligible CSPs should consider those components that are necessary to support the provision of a carriage service. This may include components that support the provision of the service, as well as those that support the integrity and reliability of the asset, and the confidentiality of information relevant to the asset.

Where components operate as a single system or network that meets the definition of a critical infrastructure asset they may be registered as a single critical infrastructure asset. Alternatively, where the components operate as separate systems or networks that each meet the definition of a critical infrastructure asset, they may be registered as separate critical infrastructure assets. Carriers and Eligible CSPs will be best placed to make this determination.

For example, a carrier might report information about its mobile network as a whole, or a regional backhaul network it owns. An eligible CSP might report its Operational Support Systems and Business Support Systems. The level of reporting will be different for different entities, and may depend on their level of capital intensity.

<sup>4</sup> See <https://www.cisc.gov.au/resources-and-contact-information/forms/re-change>

<sup>5</sup> See section 13(3) *Telecommunications (Carrier Licence Conditions—Security Information) Declaration 2022* and *Telecommunications (Carriage Service Provider – Security Information) Determination 2022*: the operational information about assets should, where practicable, be provided by the eligible carriage service provider at the level of component systems of telecommunications networks, constituent network units, and associated control or administrative systems, identifying these by each distinct operational region (as applicable)

Maintained data is data about an asset that is maintained by an entity other than the relevant Carrier or eligible CSP, and is:

- Personal information<sup>6</sup> of at least 20,000 individuals;
- Sensitive information<sup>7</sup> that relates to any individual;
- Information about any research and development related to the asset;
- Information about any systems needed to operate the asset;
- Information about risk management and business continuity (however described) for the asset; or
- Information about consumers' consumption of listed carriage services or any directly-related product.

*(NB Maintained data encompasses that held on cloud computing services or on software-as-a-service (SAAS) systems)*

For example, if an eligible CSP has an arrangement in place where a third-party entity operated a customer database that included consumer consumption information, the information in the database would be 'maintained data'. Where there is an entity that has maintained data in relation to a carrier or eligible CSP, the carrier or eligible CSP should provide the following information about the entity that maintains the data:

- The name of the entity;
  - o The entity's ABN (or international equivalent);
  - o Address of the entity's head office or principal place of business; and
  - o The country in which the entity was formed;
- The address where the data is held (for example, to the extent practicable, the address where servers are located);
- For data held using a cloud service—the name of the cloud service; and
- The kind of data maintained by the entity.

#### **What is an "interest"?**

An interest may be a legal or equitable interest in the asset. In describing the type of interest the direct interest holder holds in the asset, please consider whether there is:

- An ownership / equitable interest in the asset (i.e. an entity owns a part or all of the asset).
- A voting interest in the asset (i.e. an entity has voting rights that may influence the operation of the asset).
- A legal interest in the asset (i.e. an entity has the power to direct the operations of the asset).
- Any other interest that affects the function of the asset.

In describing the level of interest the direct interest holder holds in the asset, please consider the amount or extent of the interest, for example percentage of ownership, number or percentage of voting right, or extent of legal interest.

#### ***Different Interests, Separate Entries***

*Where different components have different ownership and/or control interests – eg they are leased assets or jointly owned assets – our recommendation is that they should be entered as separate components and identified as related to the other entries provided by the carrier or eligible CSP.*

<sup>6</sup> For the purposes of the *Privacy Act 1988*.

<sup>7</sup> For the purposes of the *Privacy Act 1988*.

## Direct interest holders and control information

On occasion, there will be entities that have a direct financial interest or some control of a critical telecommunications asset. In these circumstances, the carrier or eligible CSP has an obligation to report these arrangements.<sup>8</sup> A direct interest holder is an entity that:

- Together with any associates holds an interest of at least 10 per cent in the asset, or
- Holds an interest in the asset that puts the entity in a position to directly or indirectly influence or control the asset.

In reporting interest and control information, carriers and CSPs should report:

- The name of the entity
  - o if the entity is a body corporate, the ABN or international equivalent;
  - o if the entity is not an individual, the address its head office and country it was created;
  - o if the entity is an individual, the residential address of the individual, the country they reside and the countries where the individual is a citizen.
- The type and level of the interest held in the asset.
- Information about the influence or control the direct interest holder can exercise, and where applicable, information about the ability of another person to appointed by the direct interest holder to directly access networks or systems that are necessary for the operation or control of the asset.
- The name of each other entity that is in a position to directly or indirectly influence or control the direct interest holder.

This information is critical to enable the Government to identify the entities that are able to control or influence Australia's critical telecommunications infrastructure.<sup>9</sup>

Direct interest holder – Example 1	Direct interest holder – Example 2
<p>Carrier X holds a 40% interest in a critical telecommunications network in the form of a mobile network. Carrier X is wholly owned by Trust Y, which is wholly owned by Holding Entity Z, which is a subsidiary of Company A. Company A also has the ability to exercise veto rights in relation to Carrier X.</p> <p>Carrier X is the first entity and direct interest holder of the critical telecommunications asset and would need to register its interest and control information. Carrier X would also need to register details about Trust Y, Entity Z and Company A.</p>	<p>Carrier A owns a critical telecommunications asset in the form of a fixed line network. One board member, who has network operations experience, takes over the responsibilities of the chief operating officer who has fallen ill and cannot perform their functions for a significant period. As this role requires access to the critical telecommunications asset's network control systems, this access would need to be reported by the Carrier.</p>

<sup>8</sup> Unlike other critical infrastructure sectors, the obligation to report direct interests falls exclusively upon carriers and eligible CSPs, many of which have existing ownership and control reporting obligations under other statutory provisions.

<sup>9</sup>Forms: [New Registration by a Direct Interest Holder](#); [Notification of change to an existing registration](#)

## Practical issues

As some of the required information will be with third parties, carriers and eligible CSPs should consider updating their contractual terms with their service providers to ensure that they can provide the required information.

The instruments provide that a carrier or eligible CSP only has to use its best endeavours to obtain the information sought. They also allow carriers and eligible CSPs to request that a report on an asset is not required – eg to deal with transitional situations, or particularly problematic information access issues.

For more information on filing reports and the obligation in general, please visit <https://www.cisc.gov.au/compliance-and-reporting/overview/reporting>