



Appendix C – Summary of Implementation Working Group recommendations

Source: Data Retention Implementation Working Group, *Report 1 of the Data Retention Implementation Working Group*, December 2014.

Summary of IWG Recommendations

The IWG, following its discussions and support provided by industry experts, recommends that the Government consider a number of amendments to the proposed data set to support further clarity and assist implementation of the data retention scheme. The IWG recommendations relate to potential changes to both the data set itself, as well as changes to the explanatory material accompanying the data set. The matters that Government may wish to consider are summarised in the **Table 1** below, and are overlaid on the proposed data set and highlighted at **Attachment A** for ease of consideration.

Table 1: Summary of IWG recommendations

Recommendation	Details
IWG's proposed amendments to the data set	
1	Amend text to provide additional clarity on the distinction between actual usage or consumption and contractual terms regarding allowances or caps.
2	Amend text to replace the reference to “bandwidth” with “data volume usage” to improve clarity and distinguish from data allowances.
3	Remove the proposed requirement for service providers to retain metric information relating to plans and contracts (data set element 1(f)).
4	Change the phrase “any identifiers” in items 2 and 3 of the data set to “identifiers”.
IWG's proposed amendments to policy and process	
5	Any proposed change to the regulations should only come into effect after Parliament has had an opportunity to review the proposal and the disallowance period has expired.
IWG's proposed amendments to the data set's explanatory material	
6	Include additional explanatory material providing specific examples of the application of data set elements in relation to identifiers across a selection of current service types to support clarity for industry while retaining technological neutrality

7	Include additional service-level examples illustrating how data retention applies, with particular reference to the application to access layer services (including where particular data points do not apply).
8	Include additional explanation, consistent with paragraph 187A(4)(b) of the Bill, highlighting the application of data retention obligations to wholesale and retail providers, including that a wholesale provider is not required to retain “downstream” information in relation to a service provided by a retail provider.
9	Include additional explanation stating, for the avoidance of doubt, that the data retention obligations do not require providers of free services that do not generate any billing information, to create or retain such data.
10	Include additional explanation, consistent with subsection 187A(7) of the Bill, illustrating the application of the concept of a “communication session”, including more examples and noting that a communication session can last for an extended period (e.g. months in the case of some internet access sessions).
11	Include additional text, consistent with paragraph 187A(4)(b) of the Bill, clarifying that data set item 3, the destination of a communication, is not required in relation to internet access services.
12	Include an explanation of the difference between data usage and data allowance, including that these data points may be retained in a way that is consistent with a provider's existing records management, (e.g. aligned with that provider's billing cycle).
13	Replace any reference to a “person” with “subscriber”.
14	Include, in relation to data set item 5 (type of communication) additional examples highlighting the meaning of “type” of communication in particular contexts.
15	Include additional explanatory material illustrating the operation of location information requirements in relation to non-mobile services.
16	Insert additional text to clarify that the data retention obligations do not preclude service providers from retaining items in the data set for longer than the required two year period for their own business purposes.

