

Vividwireless Investigation Report

Findings

The ACMA finds that Vividwireless Pty Ltd (ACN 137 696 461) (**Vividwireless**) contravened paragraph 7(1)(a) of the *Telecommunications (Consumer Complaints Handling) Industry Standard 2018* (the **Complaints Standard**) on 30 July 2018, by failing to establish a complaints handling process that includes the minimum requirements for consumer complaints handling.

The ACMA also finds that Vividwireless contravened subsection 128(1) of the *Telecommunications Act 1997* (the **Act**) by failing to comply with an industry standard determined under subsection 125AA(1) of the Act on 30 July 2018.

Background

In a letter dated 31 August 2018 the ACMA advised Vividwireless Pty Ltd that it was investigating Vividwireless's compliance with sections 8, 9 and 10 of the Complaints Standard (the **minimum requirements for consumer complaints handling**).

That same letter advised:

- that on 30 July 2018, ACMA staff had assessed the complaints handling process that was available on Vividwireless's website on 30 July 2018 (the **CHP**); and
- the ACMA's preliminary findings regarding Vividwireless's compliance with the minimum requirements for complaints handling.

On 21 September 2018, the ACMA advised Vividwireless of its further preliminary findings regarding Vividwireless' CHP compliance with the minimum requirements for consumer complaints handling.

Vividwireless provided submissions on 14 and 28 September 2018, in response to those preliminary views of ACMA staff (the **responses**) and included a revised CHP.

Reasons

The table below sets out the ACMA's final findings and the reasons for those findings. In making its final findings, the ACMA has considered the CHP and the responses. The revised CHP is not the subject of the ACMA's final findings.

Compliance with the minimum requirements for consumer complaints handling

Provision	Requirement	ACMA finding and reasons
7(1)(a)	A carriage service provider, that offers to supply telecommunications products to consumers under a consumer contract must establish a complaints handling process that includes the minimum requirements for consumer complaints handling.	Vividwireless has contravened paragraph 7(1)(a) by failing to include the minimum requirements for consumer complaints handling in the CHP as set out below.
8(1)	A complaints handling process must:	
8(1)(b)	be made available to the public on the carriage service provider's website in a concise form that sets out the minimum requirements for complaints handling referred to in	The CHP did not set out all the matters referred to in paragraphs (d) to (m) and section 9 and 10, namely: <ul style="list-style-type: none">- paragraph 8(1)(d);

	<p>paragraphs (d) to (m), and sections 9 and 10; 30 July 2018</p>	<ul style="list-style-type: none"> - paragraph 8(1)(k); - paragraph 8(1)(m); - section 9; - paragraph 10(c); - paragraph 10(f); and - paragraph 10(g). <p>Therefore, the ACMA finds that Vividwireless did not include the minimum requirements in paragraph 8(1)(b) of the Complaints Standard in the CHP.</p>
8(1)(d)	<p>be free of charge for consumers to use;</p>	<p>The CHP indicated that there are some circumstances for which charges may be levied. There are no exceptions which allow for charging under the Standard.</p> <p>Therefore, the ACMA finds that Vividwireless did not include the minimum requirements in paragraph 8(1)(d) of the Complaints Standard in the CHP.</p>
8(1)(k)	<p>require members of its personnel to:</p>	
8(1)(k)(i)	<p>clarify with a consumer if they wish to make a complaint where the consumer has made contact and expressed dissatisfaction through one of the channels referred to in paragraph (h) or paragraph (i), and the member of the personnel is uncertain if the consumer wishes to make a complaint; and</p>	<p>The CHP did not include any information requiring personnel to clarify with a consumer whether they wish to make a complaint.</p>
8(1)(k)(ii)	<p>provide consumers with help to formulate, make and progress a complaint, and set out steps to assist members of its personnel to help consumers with special needs or disabilities, and consumers from non-English backgrounds or those suffering financial hardship;</p>	<p>Further, while the CHP provided details for consumers to contact the National Relay service and the National Interpreter Service Line it did not require personnel to provide consumers with help to formulate, lodge and progress complaints, or set out steps for its personnel to help consumers suffering financial hardship.</p> <p>Therefore, the ACMA finds Vividwireless did not include the minimum requirements in paragraph 8(1)(k) of the Complaints Standard in the CHP.</p>
8(1)(m)	<p>set out in sequence each potential step in the process for managing a complaint that was unable to be resolved on first contact, including the following steps:</p>	<p>The CHP reviewed by the ACMA did not set out in sequence the potential step in the process for managing a complaint unable to be resolved on first contact as required under:</p> <ul style="list-style-type: none"> - subparagraph 8(1)(m)(iii); - subparagraph 8(1)(m)(iv); and - subparagraph 8(1)(m)(viii)

		as described below.
8(1)(m)(iii)	initial assessment of a complaint;	<p>The CHP did not include information/adequate information about the initial assessment of a complaint that was unable to be resolved on first contact.</p> <p>Accordingly, the ACMA finds the Vividwireless did not include the minimum requirements in subparagraph 8(1)(m)(iii) of the Complaints Standard in the CHP.</p>
8(1)(m)(iv)	investigation of a complaint;	<p>The CHP did not include information/adequate information about the investigation of a complaint that cannot be resolved on first contact.</p> <p>Therefore, the ACMA finds that Vividwireless did not include the minimum requirements in subparagraph 8(1)(m)(iv) of the Complaints Standard in the CHP.</p>
8(1)(m)(viii)	closing a complaint;	<p>The CHP did not include any information about closing a complaint.</p> <p>Accordingly, the ACMA finds that Vividwireless did not include the minimum requirements in subparagraph 8(1)(m)(viii) of the Complaints Standard in the CHP.</p>
9	A complaints handling process must identify the relevant time periods associated with each step in the process, including the response times for managing a complaint set out in sections 12, 13, 14, 15, 16 and 17.	<p>The CHP did not identify:</p> <ul style="list-style-type: none"> - the timeframes for providing written confirmation of the matters in paragraphs 13(1)(g), (h) or (K) where requested as required by subsection 13(2); - the timeframes where there is any delay in the resolution of complaints as required by section 14; - the timeframes for advice regarding prioritisation, escalation and external dispute resolution as required by section 15; - the timeframes for advising of frivolous or vexatious complaints as required by section 16; and - the timeframes for attempting to contact a consumer where the CSP has been unable to contact the consumer to discuss the complaint as required by section 17.

		Therefore, the ACMA finds that Vividwireless did not include the minimum requirements in section 9 of the Complaints Standard in the CHP.
10	A complaints handling process must:	
10(c)	require complaints to be escalated at the reasonable request of a consumer;	<p>The CHP did not include an express requirement that complaints can be escalated at the reasonable request of the consumer.</p> <p>Therefore, the ACMA finds that Vividwireless did not include the minimum requirements in paragraph 10(c) of the Complaints Standard in the CHP.</p>
10(f)	provide that a consumer's telecommunications service cannot be cancelled for the sole reason that the consumer was unable to resolve the complaint directly with the carriage service provider (CSP) and pursued options for external dispute resolution; and	<p>The CHP stated: 'We will not charge or penalise you for making a complaint' and later 'We will not demand payment of genuinely disputed amounts while a complaint is under Investigation'.</p> <p>However, the CHP did not include information that a consumer's telecommunications service cannot be cancelled for the sole reason the consumer was unable to resolve the complaint directly with Vividwireless and pursued external dispute resolution.</p> <p>Accordingly, the ACMA finds that Vividwireless did not include the minimum requirements in paragraph 10(f) of the Complaints Standard in the CHP.</p>
10(g)	include a process for classifying complaints into different categories, which clearly describes each category of complaint.	<p>The CHP did not include a process for classifying complaints into different categories, which clearly describes each category of complaint.</p> <p>Therefore, the ACMA finds that Vividwireless did not include the minimum requirements in paragraph 10(g) of the Complaints Standard in the CHP.</p>

Compliance with subsection 128(1) of the Act

Provision	Requirement	ACMA finding and reasons
Subsection 128(1)	if an industry standard applies to participants in a particular section of the telecommunications industry and is registered under Part 6 of the Act, each participant in that section of the industry must comply with the standard.	<p>The Complaints Standard:</p> <ul style="list-style-type: none"> - is an industry standard determined under subsection 125AA(1) of the Act and registered under Part 6 of the Act. - applies to participants in the telecommunications industry including carriage service providers. <p>Vividwireless supplies internet services to the public and is considered a CSP for the purposes of the Act and the Complaints Standard.</p> <p>Vividwireless's CHP has not complied with the requirements of the Complaints Standard for the reasons stated above.</p> <p>Therefore, the ACMA finds that Vividwireless has breached subsection 128(1) of the Act for failure to comply with paragraph 7(1)(a) of the Complaints Standard.</p>