

Investigation Report

File No	ACMA2022/219
Entity	Account Management Australia Pty Ltd
ACN	622 636 364
Scope of Investigation	Compliance with subsection 128(1) of the <i>Telecommunications (Consumer Protection and Service Standards) Act 1999</i>
	Compliance with the service provider rule at clause 1 of Schedule 2 to the <i>Telecommunications Act 1997</i>
	Compliance with subsection 101(1) of the <i>Telecommunications Act 1997</i>

Findings

The Australian Communications and Media Authority (the **ACMA**) finds that Account Management Australia Pty Ltd (ACN 622 636 364) (**AMA**) has contravened:

- (a) subsection 128(1) of the *Telecommunications (Consumer Protection and Service Standards) Act 1999* (the **TCPSS Act**);
- (b) the service provider rules set out at clause 1 of Schedule 2 to the *Telecommunications Act 1997* (the **Act**); and
- (c) subsection 101(1) of the Act,

by failing to join the Telecommunications Industry Ombudsman (**TIO**) scheme.

Background

1. On 11 April 2022, the ACMA received a referral from the TIO alleging that AMA had failed to join the TIO scheme in accordance with subsection 128(1) of the TCPSS Act.
2. On 17 July 2020, the TIO became aware that AMA may be providing carriage services when the director of AMA, Mr Alfred Attard, contacted the TIO to make a complaint as a customer of Telstra. Mr Attard indicated to the TIO that AMA is reselling Telstra's products and services.
3. On 8 September 2020, the TIO sent AMA an application to join the TIO scheme. There was no response to this email. On 17 September 2020, the TIO called Mr Attard. Mr Attard advised that AMA was in contact with the ACMA to confirm whether AMA was offering a carriage service.
4. On 22 September 2020, the ACMA received a request from AMA for an exemption to the requirement to join the TIO scheme. AMA's application form was incomplete, and it failed to respond to requests for further information made by the ACMA in October 2020. Consequently, the ACMA closed the matter and no exemption to the requirement to join the TIO scheme was granted. On 4 November 2020, the ACMA advised AMA of this outcome. The ACMA informed the TIO that it had closed the matter on 17 November 2020.
5. The TIO attempted to contact AMA in May and June 2021 about the requirement to join the TIO scheme and resent a copy of the TIO membership application form to AMA on 8 July 2021. The TIO sent follow-up emails to AMA on 11 August and 21 September 2021. The TIO sent a final notice to join the TIO with the membership application form on 13 January 2022.

6. The ACMA investigated the TIO referral and on 23 May 2022 sent its preliminary findings report to AMA inviting it to respond by 7 June 2022.
7. On 26 May 2022, AMA advised the ACMA that it had submitted a membership application form to the TIO.
8. On 27 May 2022, the ACMA received notification from the TIO that AMA had joined the TIO scheme on that day.

Legislative framework

9. Under paragraph 510(1)(aa) of the Act, the ACMA may investigate a potential contravention of the TCPSS Act, where it has reason to suspect that a person may have contravened that Act.
10. Subsection 128(1) of the TCPSS Act requires each carrier and eligible CSP to enter into a scheme known as the TIO scheme. For the purpose of Part 6 of the TCPSS Act, an 'eligible CSP' includes a carriage service provider (**CSP**), such as AMA, who supplies carriage services that enable end-users to access the internet (subparagraph 127(a)(iii) of the TCPSS Act).
11. Where a CSP contravenes subsection 128(1) of the TCPSS Act it also contravenes the service provider rule set out at clause 1 of Schedule 2 to the Act and subsection 101(1) of the Act.

Findings and reasons

12. AMA is an 'eligible CSP' as it supplies carriage services that enable end-users to access the internet (subparagraph 127(a)(iii) of the TCPSS Act).
13. On 7 July 2022, AMA advised the ACMA that it began offering 4G data services to a small number of customers on 4 January 2019. AMA states on its webpage <https://accountmanagementaustralia.com.au/>:

Make my telco better and cheaper...Is your business impacted by phone or internet downtime? Yes!...Service Examples – We will deploy fixed assets such as modems, 4G data and private technicians during the downtime period to the SIP faults – at no extra cost, and we will deploy new mobile phones and 4G data in the event that constitutes downtime due to a fault – at no extra cost.*

14. On 27 May 2022, AMA joined the TIO Scheme.
15. For the above reasons, the ACMA is satisfied that AMA was an eligible CSP for the period between 4 January 2019 until 26 May 2022 which was the day before AMA joined the TIO scheme. By not joining the TIO scheme for that period, AMA contravened subsection 128(1) of the TCPSS Act and, thereby failed to comply with the service provider rule set out at clause 1 of Schedule 2 to the Act, and subsection 101(1) of the Act.