

Investigation Report

File No	ACMA2022/359
Entity	Hosted Telecommunications Pty Ltd
ACN	648 922 758
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**) is of the view that Hosted Telecommunications Pty Ltd (ACN 648 922 758) (**Hosted Telecommunications**) 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 29 June 2022, the ACMA received a referral from the TIO alleging that Hosted Telecommunications had failed to join the TIO scheme in accordance with subsection 128(1) of the TCPSS Act.
2. The TIO became aware that Hosted Telecommunications may be providing telecommunications services when a complaint was made on 15 February 2022 about porting a number to another provider and billing.
3. The TIO has engaged with Hosted Telecommunications on several occasions in relation to joining the TIO scheme since 16 March 2022.
4. The ACMA investigated the TIO referral and on 2 August 2022 sent its preliminary findings report to Hosted Telecommunications inviting it to respond by 17 August 2022. The ACMA has not received a response to its preliminary findings.

Legislative framework

5. 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.
6. Subsection 128(1) of the TCPSS Act requires each carrier and eligible carriage service provider (**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 CSP, such as Hosted Telecommunications, who supplies standard telephone services to small business customers (subparagraph 127(a)(i) of the TCPSS Act).
7. 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.
8. The ACMA may give a remedial direction under subsection 102(2) of the Act to an eligible CSP, directing it to join the TIO scheme.

Findings and reasons

9. Hosted Telecommunications is an 'eligible CSP' as it supplies standard telephone services to small business customers (subparagraph 127(a)(i) of the TCPSS Act).
10. Section 6 of the TCPSS Act defines a standard telephone service as a carriage service for the purpose of voice telephony (or an equivalent form of communication for an end-user with a disability) between end-users supplied with the same service, whether or not the end-users are connected to the same telecommunications network.
11. Hosted Telecommunications states on its webpage <https://www.hostedtelecommunications.com.au/> that it specialises in business or corporate grade Voice over Internet Protocol (**VoIP**) connectivity. The VoIP services that Hosted Telecommunications promotes on its website include plans that offer unlimited local and national calls. The reference to local and national calls is consistent with the relevant key features of a standard telephone service, including being for the purpose of voice telephony and enabling communications between end-users who are supplied with a standard telephone service.
12. On the basis of the content of Hosted Telecommunications' webpage, the ACMA considers that it is reasonable to assume that it supplies standard telephone services to small business customers.
13. At the time of concluding this investigation, Hosted Telecommunications had not joined the TIO scheme.
14. For the above reasons, the ACMA is of the view that Hosted Telecommunications is an eligible CSP. By not joining the TIO scheme, Hosted Telecommunications has 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.