

Investigation Report

File No	ACMA2022/357
Entity	Ms Eunyoung Yoo, trading as Telink Australia
ABN	ABN: 69 213 268 668
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 sole trader, Ms Eunyoung Yoo, trading as Telink Australia (ABN 69 213 268 668) (**Telink**), has contravened:

- (a) subsection 128(1) of the *Telecommunications (Consumer Protection and Service Standards) Act 1999* (the **TCPSS Act**);
- (b) the service provider rule 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 Telink had failed to join the TIO scheme in accordance with subsection 128(1) of the TCPSS Act.
2. The TIO became aware that Telink may be providing carriage services when a complaint was made about pre-paid prison engine numbers not working.
3. The TIO has engaged with Telink on multiple occasions in relation to joining the TIO scheme since 16 February 2022:
 - a) On 16 February 2022, the TIO emailed Telink about the requirement to join the TIO scheme and enclosed a copy of an application form to join the TIO scheme. There was no response to this email.
 - b) On 31 March 2022, the TIO emailed Telink a second time about the requirement to join the TIO scheme, enclosing another copy of an application form to join the TIO scheme. There was no response to this email.
4. The ACMA investigated the TIO referral and on 2 August 2022 sent its preliminary findings report to Telink inviting it to respond by 17 August 2022.
5. On 19 August 2022, Telink advised the ACMA that it had submitted a membership application form to the TIO on 17 August 2022.

6. On 19 August 2022, the ACMA received notification from the TIO that Ms Eunyoung Yoo, trading as Telink, had joined the TIO scheme on that day.

Legislative framework

7. 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.
8. 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 Ms Eunyoung Yoo, trading as Telink, who supplies standard telephone services to residential customers (subparagraph 127(a)(i) of the TCPSS Act).
9. 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

10. Ms Eunyoung Yoo, trading as Telink, is an 'eligible CSP' as Ms Eunyoung Yoo, trading as Telink, supplies standard telephone services to residential customers (subparagraph 127(a)(i) of the TCPSS Act).
11. On 15 August 2022, Telink advised that it began supplying services in February 2021. Telink states on its webpage <https://www.telinkau.net/>:

We give you a standard fixed line phone number that can receive calls from your loved one's prison at local rates. When inmate calls your landline number, we call your mobile over the standard mobile phone network.

Prison calling, Standard Plan, \$30, 360 mins

Prison calling, Premium Plan, \$50, 580 mins.

12. On 19 August 2022, Ms Eunyoung Yoo, trading as Telink, joined the TIO scheme.
13. For the above reasons, the ACMA is satisfied that Ms Eunyoung Yoo, trading as Telink, was an eligible CSP for the period 28 February 2021 to 19 August 2022, which was the day Ms Eunyoung Yoo, trading as Telink, joined the TIO scheme. By not joining the TIO scheme for that period, Ms Eunyoung Yoo, trading as Telink, 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.