

## Investigation Report

<b>File No</b>	ACMA2023/119
<b>Entity</b>	Collect Australia Pty Ltd
<b>ACN</b>	643 778 054
<b>Scope of Investigation</b>	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 Collect Australia Pty Ltd (ACN 643 778 054) (**Collect**) 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 10 March 2023, the ACMA received a referral from the TIO alleging that Collect had failed to join the TIO scheme in accordance with subsection 128(1) of the TCPSS Act.
2. The TIO became aware that Collect may be providing telecommunications services when a complaint was made on 29 November 2022 regarding incorrect information given at point of sale about service charges for international calls.
3. The TIO has engaged with Collect on several occasions in relation to joining the TIO scheme since 29 November 2022.
4. The ACMA investigated the TIO referral and on 29 March 2023 sent its preliminary findings report to Collect inviting it to respond by 11 April 2023. On 29 March 2023 Collect responded to the preliminary finding and advised it had not been previously aware of the obligation to join the TIO and it took immediate action to address the issue after the ACMA's involvement. Collect also confirmed it started trading new customers on or about August 2021.

## **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 Collect, who supplies public mobile services (subparagraph 127(a)(ii) 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. Collect is an 'eligible CSP' as it supplies public mobile telecommunications services (subparagraph 127(a)(ii) of the TCPSS Act).
10. Collect states on its webpage <https://collect.com.au/> that it offers SIM plans on no lock-in contracts.
11. On the basis of the content of Collect's webpage, the ACMA considers that it is reasonable to assume that it supplies public mobile telecommunications services..
12. On 28 March 2023 the TIO confirmed that Collect had joined the TIO scheme on that date.
13. For the above reasons, the ACMA is of the view that Collect is an eligible CSP. By not joining the TIO scheme between 31 August 2021 and 28 March 2023, Collect 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.