

Investigation Report

File No	ACMA2023/173
Entity	The Trustee for J & T Tripodi Trust, trading as TriCorp Technologies
ABN	81 809 612 480
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 The Trustee for J & T Tripodi Trust, trading as TriCorp Technologies (ABN 81 809 612 480) (**TriCorp**) 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 27 March 2023, the ACMA received a referral from the TIO alleging that TriCorp had failed to join the TIO scheme in accordance with subsection 128(1) of the TCPSS Act.
2. The TIO became aware that TriCorp may be providing telecommunications services when a complaint was made on 22 June 2022 after TriCorp disconnected a consumer's business land line and internet services.
3. The TIO provided a copy of an invoice dated 2 June 2022 from TriCorp for 'Monthly Phone Calls Pack In Advance' and 'Internet'.
4. The TIO has engaged with TriCorp on several occasions in relation to joining the TIO scheme since 22 June 2022.
5. As of 17 April 2023, TriCorp joined the TIO Scheme as evident from the list of members at www.tio.com.au/members.

6. The ACMA investigated the TIO referral and on 20 April 2023 sent its preliminary findings report to TriCorp inviting it to respond by 5 May 2023. On 23 April 2023 TriCorp responded to the preliminary finding confirming it is a reseller of telecommunications services.

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 TriCorp, who supplies standard telephone services (subparagraph 127(a)(i) of the TCPSS Act) and who supplies a carriage service that enables end-users to access the internet (subparagraph 127(a)(iii) 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. TriCorp is an 'eligible CSP' as it supplies standard telephone services (subparagraph 127(a)(i) of the TCPSS Act) and a carriage service that enables end-users to access the internet (subparagraph 127(a)(iii) of the TCPSS Act).
11. TriCorp states on its webpage <https://www.tricorp.net.au/> that it offers internet and cloud based VoIP PBX Telephone System connection via the internet.
12. On the basis of the content of TriCorp's webpage, the ACMA considers that it is reasonable to assume that TriCorp supplies standard telephone services and carriage services that enable end-users to access the internet.
13. On 17 April 2023 the TIO confirmed that TriCorp had joined the TIO scheme on that date.
14. For the above reasons, the ACMA is of the view that TriCorp is an eligible CSP. By not joining the TIO scheme between 2 June 2022 and 17 April 2023, TriCorp 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.