

Investigation Report

File No.	ACMA2022/680
Carriage service provider	Southern Phone Company Limited
ACN	100 901 184
Scope of investigation	Compliance with clauses 6.6.2, 6.7.1 and 6.7.5 of the Telecommunications Consumer Protections Code C628:2019

Summary of findings

1. The Australian Communications and Media Authority (the **ACMA**) has found that Southern Phone Company Limited (**SPC**) contravened the *Telecommunications Consumer Protections Code C628:2019* (the **TCP Code**) between 15 December 2021 and 4 August 2022 by failing to comply with the following clauses in the TCP Code:
 - a. 6.6.2 on 12 occasions between 15 December 2021 to 18 May 2022 by failing to include a link to, or reference, the Financial Hardship policy and contact details as appropriate for the communication method when it sent reminder notices to 12 customers via SMS.
 - b. 6.7.1 on 39 occasions between 2 March 2022 and 4 August 2022 by failing to give 20 customers at least 5 working days' notice prior to suspension and/or disconnection of their telecommunications service for credit and/or debt management reasons, in circumstances where clause 6.7.1(a) did not apply.
 - c. 6.7.5(a) on 17 occasions between 3 March 2022 and 4 August 2022 by failing to include information in the disconnection notice that, after disconnection has occurred, the customer's service plan and/or telco product (including, where applicable, telephone number) may no longer be available when notifying 17 customers about service disconnection.
 - d. 6.7.5(b) on 14 occasions between 3 March 2022 and 4 August 2022 by failing to include information or a link to the information in the disconnection notice about any impacts the disconnection may have on other services the customer has with SPC when notifying 14 customers about service disconnection.
 - e. 6.7.5(c) on 14 occasions between 3 March 2022 and 4 August 2022 by failing to include information or a link to the information in the disconnection notice that informs customers about the consequences of non-payment, including that the customer's default leading to the disconnection may be disclosed to a credit reporting body and/or collection agency and/or debt buyer and may be added to the customer's credit file with a credit reporting body when notifying 14 customers about service disconnection.
 - f. 6.7.5(d) on 11 occasions between 28 March 2022 and 4 August 2022 by failing to include a link to the information about SPC's Financial Hardship policy in case the customer needs such assistance when notifying 11 customers about service disconnection.
 - g. 6.7.5(e) on 14 occasions between 3 March 2022 and 4 August 2022 by failing to include information or a link to the information in the disconnection notice that the debt may be passed to a collection agency and/or debt buyer when notifying 14 customers about service disconnection.

- h. 6.7.5(f) on 14 occasions between 3 March 2022 and 4 August 2022 by failing to include information or a link to the information in the disconnection notice that legal action may be taken to recover the unpaid debt when notifying 14 customers about service disconnection.

Background

2. The TCP Code is registered under Part 6 of *the Telecommunications Act 1997* (the **Act**) and sets out rules that apply to all carriage service providers (**CSPs**) that supply telecommunications products to residential and small business consumers.
3. SPC is an Australian company that provides telephone and internet services, which are listed carriage services, to residential and small business customers. It is therefore a CSP within the meaning of section 87 of the Act and is a supplier for the purposes of the TCP Code.
4. On 21 September 2022, the ACMA issued SPC with a notice under subsection 521(2) of the Act (**the Notice**). The Notice required SPC to provide information and documents relevant to its compliance with the TCP Code including copies of reminder notices and notices issued to customers that related to a decision by SPC to restrict, suspend or disconnect a customer's telecommunications service due to credit and/or debt management reasons, most recently before 31 August 2022.
5. After considering the information provided by SPC in response to the Notice, the ACMA commenced an investigation under Part 26 of the Act into SPC's compliance with clauses 6.6, 6.7.1 and 6.7.5 of the TCP Code.
6. On 17 February 2023, the ACMA sent its preliminary findings report to SPC and invited it to respond. On 3 March 2023, AGL Energy Limited¹, on behalf of SPC, provided the ACMA with a submission in response.
7. In SPC's submission, it corrected previous information it had provided to the ACMA on the dates the reminder notices and disconnection notices were sent, as well as the date the relevant suspensions took place. SPC also advised that the reminder notice template previously submitted was incorrect and provided a new reminder notice template that had been sent out to the 20 customers listed in **Attachment A**. On 17 March 2023, SPC provided additional information and documentation including disconnection notice templates.
8. In the course of the investigation, the ACMA examined
 - a. information obtained from SPC in response to the Notice, including copies of notices issued to 20 customers that related to a decision by SPC to restrict, suspend or disconnect a customer's telecommunications service due to credit and/or debt management reasons, most recently before 31 August 2022.
 - b. SPC's submission to the ACMA's preliminary findings received on 3 March 2023 and further information SPC provided on 17 March 2023.

Findings and reasons

9. Having assessed the information before it, the ACMA is of the view that SPC has contravened clauses 6.6.2, 6.7.1, 6.7.5(a), 6.7.5(b), 6.7.5(c), 6.7.5(d), 6.7.5(e) and 6.7.5(f) of the TCP Code.
10. Details of the contraventions are set out below.

Clause 6.6.2 – Content of reminder notices - financial hardship policy

11. Under clause 6.6.2 of the TCP Code, if a supplier is issuing a reminder notice other than by email or letter, the supplier must include a link to, or reference, the Financial Hardship policy and contact details as appropriate for the communication.

¹ SPC is a 100% owned subsidiary of the AGL Energy Limited Group.

12. In its response of 17 March 2023, SPC advised that 12 customers received the following reminder notice by SMS between 15 December 2021 and 18 May 2022 (see **Attachment A**):

Hi [name], our records indicate your Southern Phone Account [Account Number] is overdue and risking disconnection which may incur cancellation fees. Please call 1800 356 227 to discuss payment or you can pay now at <https://sthphone.com/paybill>.

13. The above reminder notice does not include a link to, or reference, the Financial Hardship policy as required by clause 6.6.2 of the TCP Code. Accordingly, the ACMA finds that SPC contravened clause 6.6.2 on 12 occasions between 15 December 2021 and 18 May 2022 because the SMS reminder notices failed to include a link to, or reference, the Financial Hardship policy and contact details as required.

Clause 6.7.1 – Prior notice of restriction, suspension or disconnection action

14. Under clause 6.7.1, suppliers must give customers at least 5 working days' notice prior to the restriction, suspension or disconnection of their telecommunications service for credit and/or debt management reasons, unless clause 6.7.1(a) applies.
15. Clause 6.7.1(a) states that a supplier may only restrict, suspend, or disconnect a telecommunications service for credit and/or debt management reasons without first informing the customer if:
- the supplier assesses that the customer or the account status presents an unacceptably high credit risk to the supplier;
 - the supplier reasonably suspects fraud or attempted fraud; or
 - the customer has nominated to the supplier a restriction point and the customer has reached that restriction point.
16. The Notice limited the scope of information and documentation to be provided by SPC to 2 cohorts of 10 customers each that SPC disconnected for credit and/or debt management reasons most recently before 31 August 2022, where clause 6.7.1(a) did not apply.
17. The overarching requirement in clause 6.7 is that suppliers must ensure customers are given adequate notice regarding a decision by the supplier to restrict, suspend or disconnect their telecommunications service for credit and/or debt management reasons.
18. It is the ACMA's view that in order for a supplier to give customers at least 5 working days' notice prior to restriction, suspension, or disconnection of the service for credit or debit management reasons, in compliance with clause 6.7.1:
- the supplier's restriction, suspension, or disconnection notice must include an explicit statement to the customer that their service *will be* restricted, suspended, or disconnected on or after a specified date or time period. That is, the notice should clearly convey to the customer that the supplier has made a decision to restrict, suspend, or disconnect their service on or after the relevant date if payment is not received from the customer, and
 - the relevant action should not occur for at least 5 working days after the supplier has notified the customer of its decision.

Suspension notices

19. In its response to the Notice, SPC advised that it suspended the services of the 20 customers listed in **Attachment A** before it disconnected their services. The ACMA sought evidence from SPC that it sent suspension notices to these 20 customers at least 5 working days before suspending their service.
20. SPC did not provide any evidence that it sent suspension notices to any of the 20 customers listed in **Attachment A**. Accordingly (as set out in **Attachment A**), the ACMA finds that SPC contravened clause 6.7.1 on 20 occasions between 2 March

2022 and 21 June 2022 by failing to give 20 customers at least 5 working days' notice prior to suspending their telecommunications service for credit and/or debt management reasons, in circumstances where clause 6.7.1(a) did not apply.

Disconnection notices

21. In SPC's submission, it advised that it did not send disconnection notices to 3 out of the 20 customers identified in **Attachment A** prior to disconnecting their telecommunications services. In one of the 3 cases, it did not send a disconnection notice as it was not required as the disconnection was requested by the customer (customer 2 in table 1) (See **Attachment A**).
22. SPC's disconnection notice template letter at **Attachment B**, sent to 3 out of the 20 customers listed at **Attachment A** between 21 March 2022 and 10 May 2022, states that a failure to pay within 7 business days of the date on the letter may lead to a number of outcomes. One of the outcomes includes 'your service may be Disconnected'.
23. SPC's disconnection notice template email at **Attachment C**, sent to 3 out of the 20 customers listed at **Attachment A** between 3 March 2022 and 19 July 2022, only makes a mention of possible disconnection in the heading and fails to include an explicit statement to the customer that their service will be disconnected.

Avoid disconnection of your Southern Phone.

Unfortunately, payment on your account is a little late and is overdue to the amount of \$#.00. Due to this, your service has been restricted.

24. SPC's disconnection notice template SMS at **Attachment D**, sent to 11 out of the 20 customers listed at **Attachment A** between 28 March 2022 and 4 August 2022, makes mention of a risk of disconnection and fails to include an explicit statement to the customer that their service will be disconnected.

Hi {{PRMY_CUST_FRST_NM}}, our records indicate your Southern Phone Account {{ACCOUNT_NUM}} is overdue and risking disconnection which may incur cancellation fees. Please call 1800 356 227 to discuss payment or you can pay now at <https://www.southernphone.com.au/pay-my-bill>

25. The ACMA finds for the reasons above and as set out in **Attachment A** that SPC contravened clause 6.7.1 on 19 occasions between 2 February 2022 and 4 August 2022, by failing to give 19 customers at least 5 working days' notice prior to suspension and/or disconnection of their telecommunications service for credit and/or debt management reasons in circumstances where clause 6.7.1(a) did not apply.

Clause 6.7.5 – Content of disconnection notice

Clause 6.7.5(a) – Content of disconnection notice – telecommunications service plan and/or product may no longer be available after disconnection

26. Under clause 6.7.5(a) of the TCP Code, if a supplier is notifying a customer about a disconnection of the customer's telecommunications service by email or letter, the supplier must inform the customer that, after disconnection has occurred, the customer's telecommunications service plan and/or product (including, where applicable, telephone number), may no longer be available. If the disconnection notice is issued by a method other than email or letter (such as SMS), the notice must include a link to the information detailed in clause 6.7.5(a).
27. None of the 17 disconnection notices issued to 17 of the 20 customers listed in **Attachment A** between 3 March 2022 and 4 August 2022 include information or a link in the disconnection notice that, after disconnection has occurred, the customer's service plan and/or telco product (including, where applicable, telephone number) may no longer be available

28. Accordingly, the ACMA finds that SPC contravened clause 6.7.5(a) of the TCP Code on 17 occasions between 3 March 2022 and 4 August 2022 by failing to include information or a link in the disconnection notice that, after disconnection has occurred, the customer's service plan and/or telco product (including, where applicable, telephone number) may no longer be available when notifying 17 customers about service disconnection.

Clause 6.7.5(b) – Content of disconnection notice – impacts on other services

29. Under clause 6.7.5(b) of the TCP Code, if a supplier is notifying a customer about a disconnection of the customer's telecommunications service by email or letter, the supplier must inform the customer about impacts the disconnection may have on other services the customer has with SPC. If the notice of Disconnection is issued by a method other than email or letter (such as SMS), the notice must include a link to the information detailed in clause 6.7.5(b).

30. None of the 3 disconnection notices SPC sent by email to 3 of the 20 customers listed in **Attachment A** between 3 March 2022 and 19 July 2022 to include information about the impacts the disconnection may have on other services the customer has with SPC when notifying 3 customers about service disconnection. Additionally, none of the 11 disconnection notices SPC send by SMS listed in **Attachment A** between 28 March 2022 and 4 August 2022 include a link to information about the impacts the disconnection may have on other services the customer has with SPC.

31. Accordingly, the ACMA finds that SPC contravened clause 6.7.5(b) of the TCP Code on 14 occasions between 3 March 2022 and 4 August 2022 by failing to include information or a link to the information in the disconnection notice about the impacts the disconnection may have on other services the customer has with SPC when notifying 14 customers about service disconnection.

Clause 6.7.5(c) – Content of disconnection notice – consequences of non-payment

32. Under clause 6.7.5(c) of the TCP Code, if a supplier is notifying a customer about a disconnection of the customer's telecommunications service by email or letter, the supplier must inform the customer about the consequences of non-payment, including that the customer's default leading to the disconnection may be disclosed to a credit reporting body and/or collection agency and/or debt buyer and may be added to the customer's credit file with a credit reporting body. If the disconnection notice is issued by a method other than email or letter (such as SMS), the notice must include a link to the information detailed in clause 6.7.5(c).

33. None of the 3 disconnection notices SPC send by email to 3 of the 20 customers listed in **Attachment A** between 3 March 2022 and 19 July 2022 include information about the consequences of non-payment. Additionally, none of the 11 disconnection notices SPC sent by SMS to customers listed in **Attachment A** between 28 March 2022 and 4 August 2022 include a link to information about the consequences of non-payment.

34. Accordingly, the ACMA finds that SPC contravened clause 6.7.5(c) of the TCP Code on 14 occasions between 3 March 2022 and 4 August 2022 by failing to include information or link to the information in the disconnection notice about the consequence of non-payment. when notifying 14 customers about service disconnection.

Clause 6.7.5(d) – Content of disconnection notice – Financial Hardship policy

35. Under clause 6.7.5(d) of the TCP Code, if a supplier is notifying a customer about a disconnection of the customer's telecommunications service by email or letter, the supplier must inform the customer about the supplier's Financial Hardship policy in case the customer needs such assistance. If the notice of Disconnection is issued by a method other than email or letter (such as SMS), the notice must include a link to the information detailed in clause 6.7.5(d).

36. None of the 11 disconnection notices SPC sent by SMS to 11 customers of the 20 customers listed in **Attachment A** between 3 March 2022 and 4 August 2022 include a link to information about SPC's financial policy.
37. Accordingly, the ACMA finds that SPC contravened clause 6.7.5(d) of the TCP Code on 11 occasions between 3 March 2022 and 4 August 2022 by failing to include a link to information in the disconnection notice about SPC's Financial Hardship Policy when notifying 11 customers about service disconnection.

Clause 6.7.5(e) – Content of disconnection notice – debt may be passed on to a collection agency

38. Under clause 6.7.5(e) of the TCP Code, if a supplier is notifying a customer about a disconnection of the customer's telecommunications service by email or letter, the supplier must inform the customer that the debt may be passed on to a collection agency and/or debt buyer. If the notice of Disconnection is issued by a method other than email or letter (such as SMS), the notice must include a link to the information detailed in clause 6.7.5(e).
39. None of the 3 disconnection notices SPC sent by email to 3 customers of the 20 customers listed in **Attachment A** between 3 March 2022 and 19 July 2022 include information that the debt may be passed on to a collection agency. Additionally, none of the 11 disconnection notices SPC sent by SMS to 11 of the 20 customers listed in **Attachment A** between 28 March 2022 and 4 August 2022 include a link to information that the debt may be passed on to a collection agency.
40. Accordingly, the ACMA finds that SPC contravened clause 6.7.5(e) of the TCP Code on 14 occasions between 3 March 2022 and 4 August 2022 by failing to include information or a link to the information in the disconnection notice that the debt may be passed on to a collection agency and/or debt buyer when notifying 14 customers about service disconnection.

Clause 6.7.5(f) – Content of disconnection notice – legal action may be taken

41. Under clause 6.7.5(f) of the TCP Code, if a supplier is notifying a customer about a disconnection of the customer's telecommunications service by email or letter, the supplier must inform the customer that legal action may be taken to recover the unpaid debt. If the notice of Disconnection is issued by a method other than email or letter (such as SMS), the notice must include a link to the information detailed in clause 6.7.5(e).
42. None of the 3 disconnection notices SPC sent by email to 3 of the 20 customers listed in **Attachment A** between 3 March 2022 and 19 July 2022 include information that legal action may be taken to recover the unpaid debt. Additionally, none of the 11 disconnection notices SPC sent by SMS to 11 of the 20 customers listed in **Attachment A** between 28 March 2022 and 4 August 2022 include a link to information that legal action may be taken to recover the unpaid debt.
43. Accordingly, the ACMA finds that SPC contravened clause 6.7.5(f) of the TCP Code on 14 occasions between 3 March 2022 and 4 August 2022 by failing to include information or a link to the information in the disconnection notice that legal action may be taken when notifying 14 customers about service disconnection.

Table 1 – Compliance with clause 6.7.1 and SPC data about SPC service restrictions, suspensions and disconnections

A Customer Key • Financial Hardship (FH) • Non-Financial Hardship (Non-FH)	B Date reminder notice sent	C How reminder notices were sent	D Date service suspended	E Did SPC provide the customer at least 5 working days' notice prior to the suspension of the service for credit and/or debt management reasons as required clause 6.7.1?	F Did SPC provide the customer at least 5 working days' notice prior to the disconnection of the service for credit and/or debt management reasons as required clause 6.7.1?	G How restriction/disconnection notices were sent
1 (FH) [REDACTED]	11/01/2022	Email	11/04/2022	No. SPC did not provide any evidence that it sent a suspension notice prior to suspending the service.	No. The email sent prior to disconnecting the service on 22/08/2022 includes the text 'Avoid disconnection of your Southern Phone Account' and does not convey to the customer that SPC has made a decision to disconnect their service.	Email
2 (FH) [REDACTED]	17/05/2022	SMS	29/06/2022	As above	N/A [#]	SMS for restriction notice [#]
3 (FH) [REDACTED]	15/12/2021	SMS	28/04/2022	As above	No. SPC advised that it did not send a disconnection notice prior to disconnecting the service on 21/07/2022.	N/A
4 (FH) [REDACTED]	7/04/2022	SMS	30/05/2022	As above	No. SPC advised that it did not send a disconnection notice prior to disconnecting the service on 18/07/2022.	N/A
5 (FH) [REDACTED]	15/03/2022	Email	22/04/2022	As above	No. The letter sent prior to disconnecting the service on 16/6/2022 includes the text that 'your service may be Disconnected'. It does not convey to the customer that SPC has made a decision to disconnect their service.	Letter
6 (FH) [REDACTED]	9/02/2022	SMS	13/04/2022	As above	No. The letter sent prior to disconnecting the service on 25/05/2022 includes the text that 'your service may be Disconnected'. It does not convey to the customer that SPC has made a decision to disconnect their service.	Letter
7 (FH) [REDACTED]	4/02/2022	SMS	3/04/2022	As above	No. The email sent prior to disconnecting the service on 10/5/2022 includes the text 'Avoid disconnection of your Southern Phone Account' and does not convey to the customer that SPC has made a decision to disconnect their service.	Email
8 [REDACTED] (FH)	22/02/2022	Email	7/04/2022	As above	No. The email sent prior to disconnecting the service on 27/4/2022 includes the text 'Avoid disconnection of your Southern Phone Account' and does not convey to the customer that SPC has made a decision to disconnect their service	Email
9 (FH) [REDACTED]	10/02/2022	SMS	22/04/2022	As above	No. The letter sent prior to disconnecting the service on 26/4/2022 includes the text that 'your service may be Disconnected'. It does not convey to the customer that SPC has made a decision to disconnect their service	Letter
10 (FH) [REDACTED]	2/03/2022	Email	10/03/2022	As above	No. The SMS sent prior to disconnecting the service on 20/4/2022 includes the text that 'your Southern Phone Account is overdue and risking disconnection which may incur cancellation fees'. It does not convey to the customer that SPC has made a decision to disconnect their service as it only indicates there is at risk of being disconnected.	SMS

11 (Non-FH) [REDACTED]	2/02/2022	SMS	22/05/2022	No. SPC did not provide any evidence that it sent a suspension notice prior to suspending the service.	No. The SMS sent prior to disconnecting the service on 24/8/2022 includes the text that 'your Southern Phone Account is overdue and risking disconnection which may incur cancellation fees'. It does not convey to the customer that SPC has made a decision to disconnect their service as it only indicates there is at risk of being disconnected.	SMS
12 (Non-FH) [REDACTED]	7/04/2022	SMS	9/06/2022	As above	As above	SMS
13 (Non-FH) [REDACTED]	8/02/2022	SMS	22/05/2022	As above	As above	SMS
14 (Non-FH) [REDACTED]	7/04/2022	SMS	22/05/2022	As above	As above	SMS
15 (Non-FH) [REDACTED]	4/05/2022	SMS	22/05/2022	As above	As above	SMS
16 (Non-FH) [REDACTED]	4/05/2022	Email	22/05/2022	As above	As above	SMS
17 (Non-FH) [REDACTED]	4/05/2022	Email	22/05/2022	As above	As above	SMS
18 (Non-FH) [REDACTED]	18/05/2022	SMS	29/06/2022	As above	As above	SMS
19 (Non-FH) [REDACTED]	7/04/2022	Email	9/06/2022	As above	As above	SMS
20 (Non-FH) [REDACTED]	6/04/2022	Email	19/06/2022	As above	As above	SMS

Note:# SPC advised that it did not send a disconnection notice as the disconnection was requested by the customer.

Source: Information provided by SPC

Disconnection notice template: letter

DISCONNECTION NOTICE

DAY DATE MONTH YEAR

FIRST NAME SURNAME
ADDRESS
POSTCODE STATE

PAYMENT MUST BE MADE IMMEDIATELY

Amount Due: \$00.00 Account Number: ACC00000

Your account with us remains overdue. Failure to pay **within 7 business days** of the date on this letter may lead to the following outcomes:

- Your service may be Disconnected. A reconnection fee of more than \$60 may apply
- Your account may be sent to a Debt Collection Agency for further action
- A Default may be recorded against your Credit Reference record. This may prevent you from borrowing money from any lender until your account with us is settled
- Legal action may be taken to recover the amount outstanding

If you have not yet paid your account in full you can pay by:

- Credit Card - phone 1800 204 300
- Pay online at southernphone.com.au/pay
- For alternative payment options, please refer to the payment methods detailed on your invoice.

Please advise us immediately when payment has been made by emailing collections@southernphone.net.au. Further information can be obtained about your account by calling 1800 356 227. You can access our Financial Hardship Policy on our website.



Yours faithfully,



Credit Department
Southern Phone Company

Disconnection notice template: email



 [accountnumber]  My Account

Avoid disconnection of your Southern Phone account

Hi [firstname],

Unfortunately, payment on your account is a little late and is overdue to the amount of \$#.00. Due to this, your service has been restricted.

How to pay:

To make a payment online, simply click the 'Make Payment' button below. All you'll need is your Southern Phone Account Number and your credit card details.

[Make Payment](#)

We recommend setting up Direct Debit on your account via a Bank Account or Credit Card and we will process a payment for the balance of the account on the due date. You can set this up by logging into your online [portal](#), or by calling our friendly team on 1800 356 227.

Need extra time to pay?

We're here to help. you can contact our team on 1800 356 227 to discuss payment of your account.

If you're experiencing financial hardship, we might be able to help. For more information, click [here](#).

Kind regards,

Southern Phone

Disconnection notice template: SMS

Hi {{PRMY_CUST_FRST_NM}}, our records indicate your Southern Phone Account
{{ACCOUNT_NUM}} is overdue and risking disconnection which may incur cancellation fees. Please
call 1800 356 227 to discuss payment or you can pay now at
<https://www.southernphone.com.au/pay-my-bill>