Proposal to make the Telecommunications (Financial Hardship) Industry Standard 2024

Consultation paper

October 2023

Canberra

Red Building
Benjamin Offices
Chan Street
Belconnen ACT

PO Box 78
Belconnen ACT 2616

T +61 2 6219 5555
F +61 2 6219 5353

Melbourne

Level 32
Melbourne Central Tower
360 Elizabeth Street
Melbourne VIC

PO Box 13112
Law Courts
Melbourne VIC 8010

T +61 3 9963 6800
F +61 3 9963 6899

Sydney

Level 5
The Bay Centre
65 Pirrama Road
Pyrmont NSW

PO Box Q500
Queen Victoria Building
NSW 1230

T +61 2 9334 7700 or 1800 226 667
F +61 2 9334 7799

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Written enquiries may be sent to:

Manager, Editorial Services
PO Box 13112
Law Courts
Melbourne VIC 8010
Email: info@acma.gov.au

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Executive summary

The Australian Communications and Media Authority (the ACMA) is making new rules to improve protections for telecommunications consumers experiencing financial hardship.

Telecommunications are an essential service. Reliable and affordable access to phone and internet services is necessary to support work, education, health, entertainment, social connection and government services. However, consumers are increasingly facing economic challenges as the cost of living has risen sharply in recent times.

There is evidence that current safeguards are not offering sufficient protections to telecommunications consumers facing financial difficulty. The ACMA’s [*Financial hardship in the telco sector: Keeping the customer connected*](https://www.acma.gov.au/financial-hardship-telco-sector-keeping-customer-connected) report and [associated research](https://www.acma.gov.au/publications/2023-05/report/telco-financial-hardship-quantitative-and-qualitative-research) has shown that the rates of consumers experiencing financial hardship are significant in the telecommunications sector, yet only a small proportion of these customers receive formal hardship support. It also found that where consumers did access financial hardship support, the arrangements were often not flexible or tailored to meet a consumer’s individual circumstances.

The ACMA convenes the [Consumer Consultative Forum](https://www.acma.gov.au/consumer-consultative-forum) (CCF) under section 59 of the *Australian Communications and Media Authority Act 2005*. Feedback from current consumer representatives[[1]](#footnote-2) at these meetings has emphasised the need for more robust financial hardship protections beyond those afforded by the [Telecommunications Consumer Protections Code C628:2019](https://www.commsalliance.com.au/__data/assets/pdf_file/0011/64784/TCP-C628_2019-incorporating-variation-no.1-2022.pdf) (TCP Code).

The CCF contributions referred to above accord with feedback received during development of the ACMA’s [*Consumer vulnerability: expectations for the telecommunications industry*](https://www.acma.gov.au/sites/default/files/2022-05/Consumer%20vulnerability_statement%20of%20expectations%20for%20telcos_0.pdf) published in May 2022.

On 6 September 2023, the Minister for Communications (the Minister) directed[[2]](#footnote-3) the ACMA to make a new industry standard that deals with:

* information to be provided and made available by carriage service providers (CSPs) to customers relating to financial hardship matters
* the support provided by CSPs to customers who are, or may be, experiencing financial hardship.

Under subsection 5(2) of the [Telecommunications (Financial Hardship Industry Standard) Direction 2023](https://www.legislation.gov.au/Details/F2023L01188) (the Direction*)* the industry standard must be determined by 15 February 2024 and commence in full by 29 March 2024.

The industry standard will apply to all CSPs who deal with residential, small business and not-for-profit customers. It is intended to bolster protections for consumers in vulnerable circumstances to access and receive appropriate financial support to help them remain connected to this essential service.

The ACMA invites submissions on the draft Telecommunications (Financial Hardship) Industry Standard 2024 (the draft Standard).

# Issue/s for comment

We invite comments on the draft Standard, including:

1. **Objectives and requirements of the Direction**

The Direction sets out the objectives and content requirements of the draft Standard. It requires the provision of adequate and appropriate information about financial hardship, and support for consumers experiencing financial hardship, and prioritising keeping customers connected when making decisions about credit management action. It also permits the ACMA to make rules and requirements about the processes for assessment, promotion and provision of financial hardship assistance and credit management action for customers experiencing financial hardship.

Does the draft Standard fulfil the objectives and requirements of the Direction?

If not, please explain why and describe any alternative and/or additional approaches that could be used to meet the objectives and requirements of the Direction.

1. **Adequate protection for customers with payment difficulties**

Does the draft Standard offer adequate protections to customers who are having difficulty paying their telecommunications bills?

If not, please explain why and describe alternative approaches that could be used to meet the requirements of the Direction.

Should some types of customers have specific processes applied to them? If so, please identify these customer types and describe the proposed processes.

1. **Feasibility and cost**

Are the proposed requirements robust and feasible?

What are the likely costs and benefits of implementation?

Do the requirements and processes in the draft Standard impose undue financial and administrative burdens on providers?

The ACMA welcomes detailed information about issues, costs and benefits from an economic and social standpoint against specific requirements of the draft Standard, as applicable.

1. **Commencement**

The Direction requires that the Standard (which must be determined by 15 February 2024) commence in full at the earliest practical opportunity, but no later than 29 March 2024.

We are seeking views, and the reasons for them, on the earliest practical date for the Standard to commence in full, noting that this must be no later than 29 March 2024.

1. **Contact requirements**

Under paragraph 8(1)(h) of the [Telecommunications (Consumer Complaints Handling) Industry Standard 2018](https://www.legislation.gov.au/Details/F2021C00265), all CSPs that offer services to residential and small business customers are required to permit consumers to make complaints by telephone and be able to contact CSPs by phone about their complaint (paragraph 8(1)(j) of that Standard). ACMA research into consumers experiencing difficulty with bill payments highlights the importance of phone contact.[[3]](#footnote-4)

Research by both the ACMA and consumer representative organisations indicates that a majority of consumers prefer to talk to their provider by phone to resolve more complex issues.[[4]](#footnote-5)

The ACMA is aware there are digital-only providers. How will the phone contact requirements in the draft Standard impact digital-only providers? For digital only providers, what alternatives could be provided to customers so that the objectives of the standard can be met?

1. **Time periods – short- and long-term assistance**

In the draft Standard, ‘short-term assistance’ occurs where financial hardship assistance is sought by a financial hardship customer for a period of no more than 2 billing cycles to help with a financial difficulty. Whereas, ‘long-term assistance’ is for a period of more than 2 billing cycles to help with ongoing financial difficulties.

The ACMA seeks feedback on the appropriateness of the timeframes in these definitions. Do they pose barriers to provision of adequate consumer safeguards?

1. **Transitional arrangements**

The draft Standard includes requirements for telecommunications providers in dealing with financial hardship. These rules are intended to replace those currently in Chapter 7 of the [Telecommunications Consumer Protections Code C628:2019](https://www.commsalliance.com.au/__data/assets/pdf_file/0011/64784/TCP-C628_2019-incorporating-variation-no.1-2022.pdf) (TCP Code) on these matters.

We are seeking views on how complaints about these matters made under the TCP Code should be handled upon commencement of the Standard.

Are the draft transitional provisions appropriate and workable? Are there other relevant transitional arrangements that should be included in the draft Standard? If so, please include detail, including about any applicable processes.

1. **Additional/unnecessary requirements**

The Direction is prescriptive in that it sets out what the draft Standard must contain and limits additional inclusions by the ACMA except to meet the specified objectives. Within this context, the ACMA is seeking feedback on whether there are:

6.1 additional matters which should be included into the draft Standard?

6.2 matters included in the draft Standard that are unnecessary and/or alternative arrangements that should be considered?

Please provide evidence to support your position.

# The draft industry standard

## Objective

The draft Standard is intended to improve the experience of telecommunications consumers having difficulty meeting their bill payment obligations through requiring providers to provide adequate and appropriate support. It recognises the essential nature of telecommunications services and makes clear that providers must prioritise keeping customers connected to appropriate services and that disconnection is a measure of last resort.

It will also allow more effective and direct enforcement of rules governing how CSPs assist consumers experiencing financial hardship.

## The Direction

The Directionprovides the legal authority for a new industry standard to be made under section 125AA of the *Telecommunications Act 1997* (Act)*.* It is prescriptive in requiring the industry standard to include rules for CSPs on the following matters:

written financial hardship policies which include processes for assisting customers who are, or may be, experiencing financial hardship and other requirements relating to financial hardship policies considered appropriate by the ACMA

promotion of financial hardship policies and giving and making available, information and advice to customers and potential customers about financial hardship policies and assistance

the early identification of customers who may be experiencing financial hardship and ongoing evaluation of their circumstances

appropriate customer service for customers who are, or may be, experiencing financial hardship

processes for assessment and provision of financial hardship assistance to customers

staff training and conduct in identifying and supporting customers who are, or may be, experiencing financial hardship

credit management action undertaken by, or on behalf of, CSPs in relation to customers experiencing financial hardship, including requirements for appropriate protections related to the restriction, suspension or disconnection of a telecommunications service

other matters that the ACMA considers necessary to meet the objectives of the Direction

arrangements for handling complaints relating to financial hardship matters, including conferral of powers on the Telecommunications Industry Ombudsman (TIO)

defining any terms as appropriate or necessary, including terms used in the Direction but not defined in the Direction.

## Changing environment

Telecommunications is an essential service. Connection and access to reliable and affordable phone and internet services is necessary for work, education, health and government services. It is also vital for social connection and everyday living. Telecommunications services must be inclusive of and accessible to all consumers.

The telecommunications landscape has changed substantially since the introduction of the Act in 1997. Many of the existing safeguards, including the TCP Code, are built on a legislative framework initiated at a time when telecommunications were not seen as an essential service and the telecommunications market was much less diverse.

Consumers are also facing a challenging economic environment as the cost of living has risen sharply over the past 18 months – inflation has increased, interest rates have risen, and wages have not kept pace.[[5]](#footnote-6) While telecommunications may not be a main contributor to the increased cost of living, it is a critical service.

Evidence in the ACMA’s [*Financial hardship in the telco sector: Keeping the customer connected* report](https://www.acma.gov.au/financial-hardship-telco-sector-keeping-customer-connected) and [associated research](https://www.acma.gov.au/publications/2023-05/report/telco-financial-hardship-quantitative-and-qualitative-research), has shown that current safeguards are not offering sufficient protections to consumers facing financial difficulty. For example, our research found:

25% of Australians had experienced payment difficulty or concerns in the previous 12 months for at least one of their essential services and 48% of those (almost 2.4 million Australians) had difficulty or concern paying their telco bill.[[6]](#footnote-7) Industry data from the key telcos (representing over 83% of the market) showed only 4,388 customers were in financial hardship programs as at 30 June 2022 (0.03% of all residential customers).[[7]](#footnote-8)

During 2021–22, a total of 237,166 residential customers had their services disconnected due to non-payment. Of those, only 834 were reported by the main telcos as financial hardship customers.[[8]](#footnote-9)

Awareness of telco financial assistance was low in the general population (57%) and only slightly higher in customers who experienced financial hardship (64%).[[9]](#footnote-10)

A large proportion (68%) of those aware that they could contact their telco for assistance did not do so, with 17% thinking they would not be eligible for assistance.[[10]](#footnote-11) This suggests a lack of clarity around financial hardship provisions, the range of circumstances that may apply, and the variety of assistance that can be offered.

This is further supported by:

the TIO’s report, *A time for change – Three years of systemic investigations in review*[[11]](#footnote-12)

recent ACMA enforcement action against 8 telcos for failure to provide adequate notice for service restrictions, suspensions or disconnections and failure to provide information about financial hardship policies[[12]](#footnote-13)

research by the Australian Communications Consumer Action Network (ACCAN) and the Public Interest Advocacy Centre (PIAC)[[13]](#footnote-14)

ongoing feedback from members of the CCF – consumer organisations[[14]](#footnote-15), TIO and the Australian Competition and Consumer Commission (ACCC) – at meetings, about the lack of sufficient, enforceable financial hardship protections

* feedback received during development of the ACMA’s [*Consumer vulnerability: expectations for the telecommunications industry*](https://www.acma.gov.au/sites/default/files/2022-05/Consumer%20vulnerability_statement%20of%20expectations%20for%20telcos_0.pdf) published in May 2022.

Further, in a 2021 Consumer and Policy Research Centre ‘cross-sector’ scorecard, telecommunications providers were ranked last for user experience and accessibility, and supportive practices, and second last for helpful advice and customer service. The other sectors covered were energy, private rental, mortgage, credit/finance, and insurance providers.[[15]](#footnote-16) In addition, consumers consider telecommunications to be the most distrusted industry in Australia.[[16]](#footnote-17)

## Addressing the gaps

Financial hardship rules for CSPs are outlined in Chapter 7 of the TCP Code. However, there are gaps in the operation of these rules and they do not meet the required level of consumer protection to help customers meet their payment obligations and keep their telecommunication service connected. These gaps and supporting evidence are detailed in the ACMA’s position paper [*What Consumers want – Consumer expectations for telecommunications safeguards*](https://www.acma.gov.au/what-consumers-want-consumer-expectations-telecommunications-safeguards) and the [*Financial hardship in the telco sector: Keeping the customer connected report*](https://www.acma.gov.au/financial-hardship-telco-sector-keeping-customer-connected) and [associated research](https://www.acma.gov.au/publications/2023-05/report/telco-financial-hardship-quantitative-and-qualitative-research) and include:

The definition of ‘financial hardship’ is narrow. The ACMA is aware that telcos offer some additional forms of ‘financial assistance’ but these sit outside of the TCP Code definition.

While telcos offer payment plans and bill payment extensions outside of formal financial hardship programs, these do not attract the TCP Code protections (for example, avoiding credit management action), afforded to customers on a formal financial hardship program.

A lack of flexibility in some financial hardship arrangements that does not account for a consumer’s individual circumstances.[[17]](#footnote-18)

Existing incentives to comply with the requirement to suspend credit management action for financial hardship customers may not be working adequately. For example, in August 2022, the ACMA found that a telco had breached the requirement to suspend credit management activity for 70 financial hardship customers between August 2019 to April 2022[[18]](#footnote-19).

Timeframes for telcos to notify customers of impending disconnection, suspension or restriction of services are too short and, in some cases, are not being complied with.

Low levels of consumer awareness about telecommunications financial hardship assistance.

The TCP Code does not prescribe what factors should be considered in assessing a customer’s eligibility for financial hardship assistance or what staff training would be appropriate in these circumstances.

There are limited initial enforcement options. For TCP Code breaches, the ACMA only has 2 initial options – a formal warning or a direction to comply. More serious action can only be taken after a CSP breaches a direction to comply (meaning a second or further contravention).

In consideration of cost-of-living pressures and the central role of telecommunications services to everyday life to support work, education, health, entertainment, community and government services, the Minister considered it timely and appropriate to direct the ACMA to make enforceable regulatory rules to replace those currently contained in Chapter 7 of the TCP Code.

We have considered the financial hardship obligations in Chapter 7 and credit management obligations relating to customers experiencing financial hardship in Chapter 6 of the TCP Code when drafting the industry standard and have included new and additional provisions to address identified gaps.

# Invitation to comment

## Making a submission

We invite comments on the issues set out in this consultation paper.

[Online submissions](https://www.acma.gov.au/have-your-say) can be made by uploading a document. Submissions in PDF, Microsoft Word or Rich Text Format are preferred.

Submissions by post can be sent to:

The Manager

Telecommunications Performance and Regulation Section

Australian Communications and Media Authority

PO Box 13112

Law Courts

MELBOURNE VIC 8110

The closing date for submissions is COB **Friday 24 November 2023**.

Consultation enquiries can be emailed to telcoperformanceregulation@acma.gov.au

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Information on the *Privacy Act 1988,* how to access or correct personal information, how to make a privacy complaint and how we will deal with any complaints, is available in our [privacy policy](https://www.acma.gov.au/privacy-policy).

1. Australian Consumer Action Network (ACCAN), Consumer Policy Research Centre (CPRC), Consumer Action Law Centre (CALC), Western Community Legal Centre Limited (WEstjustice), South Australian Council of Social Services (SACoSS), Isolated Children’s Parents’ Association of Australian (ICPA); NSW Business Chamber (Business NSW). [↑](#footnote-ref-2)
2. [Telecommunications (Financial Hardship Industry Standard) Direction 2023](https://www.legislation.gov.au/Details/F2023L01188) [↑](#footnote-ref-3)
3. ACMA (Australian Communications and Media Authority), [*Consumers’ experiences with telco financial hardship: Qualitative research*](https://www.acma.gov.au/sites/default/files/2023-06/Consumers%20experiences%20with%20telco%20financial%20hardship_qualitative%20research.pdf) (May 2023), accessed 19 October 2023; ACMA, [*Financial hardship in the telco sector: Keeping the customer connected*](https://www.acma.gov.au/sites/default/files/2023-04/Financial%20hardship%20in%20the%20telco%20sector_Keeping%20the%20customer%20connected.pdf)(May 2023), accessed 19 October 2023; [↑](#footnote-ref-4)
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6. ACMA, [*Financial hardship: telco and other essential sectors – Quantitative research*](https://www.acma.gov.au/financial-hardship-telco-sector-keeping-customer-connected) (May 2023), accessed 28 September 2023. [↑](#footnote-ref-7)
7. ACMA[, *Financial hardship in the telco sector: Keeping the customer connected*](https://www.acma.gov.au/financial-hardship-telco-sector-keeping-customer-connected) (May 2023), accessed 28 September 2023. [↑](#footnote-ref-8)
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9. ACMA, OmniPoll telco research, fieldwork in December 2022, unpublished data. [↑](#footnote-ref-10)
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11. TIO (Telecommunications Industry Ombudsman), [*A time for change – Three years of systemic investigations in review*](https://www.tio.com.au/reports/time-change-three-years-systemic-investigations-review#:~:text=The%20Telecommunications%20Industry%20Ombudsman%20(TIO,a%20registration%20scheme%20for%20telcos.) (June 2023), accessed 25 September 2023. [↑](#footnote-ref-12)
12. ACMA, [Eight telcos breach consumer protection rules](https://www.acma.gov.au/articles/2023-07/eight-telcos-breach-consumer-protection-rules) (July 2023), accessed 25 September 2023. [↑](#footnote-ref-13)
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18. ACMA, [Telstra breaches credit management rules for financial hardship customers](https://www.acma.gov.au/articles/2022-11/telstra-breaches-credit-management-rules-financial-hardship-customers) (December 2022), accessed 25 September 2023 [↑](#footnote-ref-19)