

5.3 TELCO CONSUMER PROTECTIONS

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The Australian Communications and Media Authority (ACMA) is taking action so that consumer protections for essential telecommunications services remain fit-for-purpose in the contemporary environment.

KEY ISSUES

- The telecommunications (telco) sector is a competitive, vital and commercially robust part of the Australian economy. Unfortunately, this can be contrasted with increasing community frustration and distrust of telcos where the industry doesn't meet consumer expectations.
- Many of the existing safeguards are built on a framework developed in 1997 at a time when telecommunications were not seen as an essential service, when fixed-line services dominated the market, and there was a less diverse range of service providers.
- Accordingly, the consumer protection framework needs to be updated to work more effectively for Australians so that essential consumer needs are being met by all telcos.
- The ACMA is in the process of making an industry standard to cover financial hardship support for consumers, upon direction from the Minister for Communications, the Hon Michelle Rowland MP (the Minister). We are complementing this work through our compliance priority of protecting consumers in financial hardship and setting expectations for how telcos should interact with customers in vulnerable circumstances.
- The upcoming Telecommunications Consumer Protections Industry Code (TCP Code) review presents a major opportunity for industry to deliver consumer safeguards that meet current expectations and that are commensurate with the sector's status as an essential service.
- The Department of Infrastructure, Transport, Regional Development, Communications and the Arts (the Department) is currently consulting on a potential licencing or registration scheme for carriage service providers (CSPs). If enabled, such a scheme would provide greater clarity about the entities in the sector and potentially facilitate a mechanism for telcos to be stopped from operating where they pose unacceptable risks to consumers.

Financial Hardship Standard

- On 6 September 2023, the Minister directed the ACMA to make a Standard strengthening consumer safeguards on financial hardship for telco customers.
- The ACMA must make the Standard by 15 February 2024. It must commence in full at the earliest practical opportunity and no later than 29 March 2024.
- We expect to release a draft Standard for public consultation in October 2023.
- The Direction from the Minister follows the ACMA's 2 May 2023 release of the *Financial hardship in the telco sector – keeping the customer connected* report and associated research.

- The report showed disproportionately low rates of consumers receiving financial hardship assistance from their telco compared to the number of Australians experiencing difficulty paying their telco bill.
- It also showed that while around 2.4 million Australians had difficulty or concern regarding their telco bills over a 12-month period covered, data from the main telcos identified only 4,388 residential financial hardship customers in June 2022.
- The key findings of the report included:
 - the rates of telco financial hardship are significant, and the reasonable expectations of telco consumers are not being met
 - industry requirements on information provision to consumers are not working sufficiently
 - finding information about what help is available for those experiencing financial difficulty should be easier
 - telcos should be more flexible in their approach to financial hardship in order to keep customers connected, similar to what exists in the energy sector
 - direct debit as a payment method can be problematic
 - effective communication is key for customers who are facing disconnection.
- The ACMA considers that telcos need to:
 - improve transparency and visibility of financial hardship arrangements – finding financial hardship policies on telco websites should be intuitive with a clearly worded direct link provided on the home page or a phone number customers can contact
 - improve customer service for consumers – including more proactive identification and support of customers struggling to pay their bills and increased flexibility in the application of entry criteria for financial hardship arrangements
 - consider a more flexible approach to bill payment – including increased payment options that are free of charge (other than direct debit) and allowing customers to part-pay their bills linked to their income payment frequency (such as bill smoothing).

Protecting telco consumers in financial hardship - ACMA compliance priority

- Protecting consumers in financial hardship is an ACMA compliance priority in 2023–24.
- We are continuing to advocate for telco customers experiencing financial hardship and focussing on how telcos are complying with their obligations to support these customers, including by monitoring their direct debit and responsible selling practices.
- In June 2023, the ACMA took enforcement action against 8 telcos after they failed to provide adequate safeguards to help customers avoid service restrictions, suspensions or disconnections.
- The ACMA's investigations involved reviewing the notifications provided to specific customers prior to them having their services disconnected. We issued formal warnings to Belong, Optus and MyRepublic. Exetel, Foxtel, Southern Phone Company, SpinTel and Vodafone were directed to comply with the TCP Code.

- In March 2023, we launched a social media education campaign “Tell your telco – they can help” aimed at promoting awareness about what consumers experiencing financial difficulties can do to obtain assistance.

TCP Code review

- The TCP Code is reviewed every 5 years, with industry responsible for conducting the review and undertaking the required robust consultation processes.
- On 6 July 2023, the ACMA released a position paper titled *What consumers want – Consumer expectations for telecommunications safeguards* which sets out the ACMA's views on the efficacy of the current TCP Code in providing appropriate contemporary consumer safeguards.
- We found that telcos are failing consumers in their selling, disconnection and billing practices and their treatment of vulnerable customers, including those experiencing financial hardship.
- The ACMA has been clear to industry that it expects significant improvements in these key areas of concern as part of the upcoming code review process, that is due to be completed by the end of 2024.
- In registering a revised code, the ACMA must take into account the adequacy of the proposed new protections as well as the adequacy of the public consultation process.
- If the revised TCP Code does not provide adequate community safeguards, the ACMA may refuse to register it, and may move to consider whether more direct regulatory intervention is appropriate.

Expectations about interacting with customers in vulnerable circumstances

- On 24 May 2022, the ACMA released a statement of expectations about how telcos should interact with customers experiencing vulnerability.
- The statement covers all aspects of customer interaction from selling practices and customer service to the provision of financial hardship support.
- It is an outcome-focused guide to better practice that clearly sets out our expectations for industry in supporting consumers experiencing vulnerability.
- Industry's response to the statement and feedback from consumers will inform considerations about whether other interventions may be necessary to enhance safeguards, including in the context of the review of the TCP Code.
- To date, the ACMA has been disappointed with the lack of industry engagement with the statement of expectations.

CSP registration scheme

- The Australian Government considers it would be beneficial to undertake a formal consultation process to rigorously investigate the potential to create a registration or licensing scheme for CSPs.
- While this will be a matter for Government to decide, the ACMA, along with the Telecommunications Industry Ombudsman and the Australian Competition and Consumer Commission, have expressed support for such a scheme since 2020.

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- The benefits could include providing visibility of CSPs in the market to inform compliance education activities - including to new market entrants, enabling better identification of providers causing harm to consumers, and, potentially, providing a mechanism for stopping CSPs from operating when the risks posed to consumers are too high.
- The public consultation opened on 28 September and closes on 30 November 2023.

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Date 3/10/2023

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