

Investigation Report

File No.	ACMA2023/580
Carriage Service Provider	Southern Phone Company Limited
ACN	100 901 184
Relevant Legislation	<i>Telecommunications Act 1997</i> <i>Telecommunications (Consumer Complaints Handling) Industry Standard 2018</i>

Investigation Findings

The Australian Communications and Media Authority (**ACMA**) finds that Southern Phone Company Limited (ACN 100 901 184) (**Southern Phone**) contravened subsection 128(1) of the *Telecommunications Act 1997* (the **Act**) by failing to comply with the following provisions of the *Telecommunications (Consumer Complaints Handling) Industry Standard 2018* (**Complaints Standard**):

- paragraph 13(1)(j) on 2 occasions between 24 April 2023 and 9 June 2023
- subsection 14(2) on 36 occasions between 1 April 2023 and 30 June 2023
- paragraph 21(a) on 39 occasions between 1 April 2023 and 30 June 2023.

Background

1. On 11 September 2023, the ACMA gave Southern Phone a notice under subsection 521(2) of the Act (the **Notice**) requiring the provision of information about complaints Southern Phone received between 1 April 2023 and 30 June 2023. The Notice followed ACMA consideration of information Southern Phone provided under the *Telecommunications (Consumer Complaints) Record-Keeping Rules 2018* for the June 2023 quarter, which led the ACMA to suspect that Southern Phone may not have complied with requirements for resolving complaints in the Complaints Standard.
2. On 9 October 2023, Southern Phone responded to the Notice, providing some but not all of the information in the manner and form specified in the Notice. Southern Phone explained that it was not able to readily identify all the information required by the Notice and that in some cases the information does not exist. Where Southern Phone could not provide information in the required manner and form required, it provided proxy data in an effort to support the ACMA's assessment of its compliance.
3. On 3 November 2023, the ACMA sought clarification/further information from Southern Phone. On 21 November 2023, Southern Phone responded to the ACMA's request.
4. A Preliminary Investigation Report was sent to Southern Phone on 20 December 2023 with an invitation to provide a submission on the ACMA's findings in that report. Southern Phone provided its submission on 31 January 2024.
5. Southern Phone accepted the ACMA's findings and said it had started a program of work focussing on its complaints handling and record-keeping processes.

Findings and reasons

Subsection 128(1) of the Act

6. Subsection 128(1) of the Act states that if an industry standard that applies to participants in a particular section of the telecommunications industry is registered under Part 6 of the Act, each participant in that section of the industry must comply with the standard.
7. The Complaints Standard is an industry standard determined under subsection 125AA(1) of the Act and registered under Part 6 of the Act. The Complaints Standard applies to participants in the telecommunications industry, which includes carriage service providers (**CSPs**).
8. Southern Phone is a CSP that supplies internet, landline and mobile services to the public. As a participant in the section of the telecommunications industry to which the Complaints Standard applies, Southern Phone is required to comply with the Complaints Standard under subsection 128(1) of the Act.
9. As set out below, the ACMA finds that Southern Phone did not comply with one of paragraph 13(1)(j), subsection 14(2), and paragraph 21(a) of the Complaints Standard on a total of 77 occasions between 1 April 2023 and 30 June 2023.
10. Therefore, the ACMA finds that Southern Phone contravened subsection 128(1) of the Act on 77 occasions between 1 April 2023 and 30 June 2023, by failing to comply with the Complaints Standard.

Paragraph 13(1)(j) of the Complaints Standard

11. Paragraph 13(1)(j) of the Complaints Standard requires a CSP to complete all necessary actions to implement a proposed resolution to a complaint, within 10 working days of the consumer accepting that resolution, except where:
 - (i) otherwise agreed with the consumer;
 - (ii) the consumer agreed to undertake actions to implement the proposed resolution by a specified time, but did not complete the actions as agreed; or
 - (iii) the complaint is an urgent complaint and paragraph 13(1)(h) applied.
12. The ACMA sought information from Southern Phone on the dates the customer accepted the proposed resolution and Southern Phone implemented the proposed resolution for 61 complaints numbered from 170 to 230 in Attachment A in Southern Phone's 9 October 2023 response to the Notice, where none of the exceptions in subparagraphs 13(1)(j)(i) to (iii) of the Complaints Standard applied.
13. In its response, Southern Phone provided:
 - > the date the customer accepted the proposed resolution *and* the date Southern Phone completed all necessary actions to implement the proposed resolution for 18 of the 61 complaints

- > the date Southern Phone completed all necessary actions to implement the proposed resolution but not the date the customer accepted the proposed resolution for 16 of the 61 complaints¹
 - > neither the date the customer accepted the proposed resolution *nor* the date Southern Phone completed all necessary actions to implement the proposed resolution for 27 of the 61 complaints.
14. The ACMA considered the information Southern Phone provided in relation to the 18 complaints for which Southern Phone provided the date the customer accepted the proposed resolution and the date Southern Phone completed all necessary actions to implement the proposed resolution.
15. Of the 18 complaints, the ACMA identified 2 instances where Southern Phone did not complete all necessary actions to implement a proposed resolution within 10 working days of the consumer accepting that resolution (see Table 1).

Table 1 – Compliance with paragraph 13(1)(j) of the Complaints Standard

Complaints reference number	(a) Date customer accepted proposed resolution	(b) Date by which all necessary actions to implement proposed resolution were completed	Number of working days between (a) and (b)
██████████	24/4/2023	5/6/2023	28
██████████	24/4/2023	9/6/2023	33

16. The ACMA therefore finds that Southern Phone contravened paragraph 13(1)(j) on 2 occasions between 24 April 2023 and 9 June 2023.

Subsection 14(2) of the Complaints Standard

17. Subsection 14(2) of the Complaints Standard provides that where a CSP does not reasonably believe that a complaint can be resolved within whichever of three timeframes are applicable to that complaint, the CSP must advise the complainant of the cause of the delay, the new timeframe for resolving the complaint, and the avenues for the customer to raise an external dispute.
18. The ACMA requested Southern Phone review a sample of 60 complaints from the 267 complaints it had identified that it did not resolve within the timeframe required by subsection 14(2) between 1 April 2023 and 30 June 2023, as set out in item 1(l) in Attachment A to its initial response to the Notice. Southern Phone was requested to review the complaints to determine how many complainants were not informed of the delay.
19. In its response, Southern Phone advised that of the 60 sample complaints it reviewed from the 267 complaints it has previously identified, it did not inform 36 complainants of the delay.
20. Given the above, the ACMA therefore finds that Southern Phone contravened subsection 14(2) on 36 occasions between 1 April 2023 and 30 June 2023.

¹ Southern Phone advised that it is not always the case that the dates exist. Southern Phone explained, for example, that for 4 complaints, the customer did not accept the proposed resolution and instead decided to escalate the complaint to the Telecommunications Industry Ombudsman.

Paragraph 21(a) of the Complaints Standard

21. Paragraph 21(a) of the Complaints Standard requires a CSP to keep records that are sufficient to demonstrate compliance with the requirements under Parts 2 to 5 of the Complaints Standard.
22. As stated in paragraph 12 above, the ACMA sought information from Southern Phone on the dates the customer accepted the proposed resolution and Southern Phone completed all necessary actions to implement the proposed resolution for 61 complaints numbered from 170 to 230 in Attachment A in Southern Phone's initial response to the Notice.
23. In Southern Phone's response dated 21 November 2023, it was not able to provide the ACMA with both the date the customer accepted the resolution and when Southern Phone implemented that solution for 43 of the 61 complaints. Of the 43 complaints, Southern Phone advised that for 4 of these complaints, the customer did not accept the proposed resolution and instead escalated the complaint to the Telecommunications Industry Ombudsman. This leaves 39 of the 61 complaints where Southern Phone did not keep records of the date the customer accepted the resolution and the date that Southern Phone implemented that solution.
24. It is necessary for a CSP dealing with customer complaints to keep records of the date a customer accepts a proposed resolution and the implementation of the proposed resolution, where applicable, in order to demonstrate compliance with the requirements in paragraph 13(1)(j) in Part 3 of the Complaints Standard.
25. For the reasons above, the ACMA therefore finds that Southern Phone contravened paragraph 21(a) of the Complaints Standard on 39 occasions in relation to 39 complaints it received between 1 April 2023 and 30 June 2023.