

27 March 2024

By email: haveyoursay@acma.gov.au

General Manager, Content and Consumer Division
Australian Communications and Media Authority
PO Box 78
Belconnen ACT 2616

Dear General Manager,

ACMA Compliance Priorities 2024 – 2025

Thank you for the opportunity to provide input on the Australian Communications and Media Authority (ACMA) compliance priorities for the 2024-25 financial year. Consumer Action Law Centre (Consumer Action) and WEstjustice consider ACMA's compliance and enforcement work as integral to protecting users of telecommunications services. We are supportive of the ACMA's current compliance and enforcement priorities and would support further action, specifically in relation to: responses to domestic and family violence (DFV) and financial abuse, selling practices and enforcement of non-compliance to protect people from scams. These issues arise regularly on our frontline services, as we address in detail below, and we see the substantial harm caused to consumers that should be prevented by the telecommunications industry. Our feedback has been informed by the following overarching themes:

1. The systemic issues impacting telecommunications customers who call and receive assistance through the National Debt Helpline (NDH) and through our legal services.
2. The widespread recognition of telecommunications as an essential service. The major disruption to peoples' everyday lives resulting from recent network outages, including those caused by the impact of extreme weather events, in addition to the increasing harm from scams, has confirmed the detrimental impact on society when people cannot access or trust their telecommunications services.
3. The current affordability crisis and poor telecommunications practices which are disproportionately affecting the lives of people experiencing vulnerability, who often end up paying a poverty premium¹ to access their essential telecommunications service and who often prioritise their phone expenses over other basic needs to stay connected. In late-2023, when financial counsellors asked callers to the NDH how much they were paying, the average amount being spent on phone (sometimes internet) bills was approximately \$100 per month, despite many callers being in significant financial stress.²
4. The requirements introduced by the Financial Hardship Industry Standard and the adequacy of the Telecommunications Consumer Protection Code (TCP Code) in assisting and protecting consumers from harmful practices.

¹ Anglicare Australia. September 2023. The Poverty Premium: The High Cost of Poverty in Australia'. Available at: <https://www.anglicare.asn.au/publications/the-poverty-premium/>

² Consumer Action Law Centre. March 2024. 'At the front line of the cost-of-living crisis: Insights from a Telephone Financial Counselling Helpline'. Available at: <https://consumeraction.org.au/report-at-the-front-line-of-the-cost-of-living-crisis/>

Accordingly, the issues discussed in our detailed submission on the ACMA Compliance Priorities 2023-24 remain highly relevant, including the enforcement of financial hardship safeguards for vulnerable consumers and ensuring customers are provided with a range of payment options that meet their needs. Those issues should be considered in addition to the further comments we have provided below.

We have reviewed the submission from the Australian Communications and Consumer Action Network (ACCAN) and endorse ACCAN's recommendation. These include protecting consumers from being sold products that do not fit their needs, supporting consumers to navigate and adapt to the 3G network shutdown, clarifying ACCAN's concerns regarding the interpretation of 'appropriate community safeguards' under s117(1)(d)(i) of the Telecommunications Act 1997 (Cth), and enforcing compliance with the Financial Hardship Industry Standard and TCP Code, noting that we are currently campaigning for stronger mandatory obligations in laws and an updated enforceable TCP code that will work to effectively protect all consumers.

To support our comments in this submission, we attach the regulator complaint submitted to ACMA and the ACCC on 9 February 2024 at **Appendix A**.

Responses to domestic and family violence and financial abuse

Over the past 12 months, Consumer Action and WEStjustice's frontline services, and financial counsellors servicing the NDH, have continued to receive regular calls from people who have not been provided with appropriate levels of assistance from their telecommunications providers when impacted by situations of DFV or financial abuse. These include instances where customers have communicated their situation to their telecommunications provider on multiple occasions, or informed providers of safety concerns when protected by police intervention orders. We have received complaints from customers who have stated that their telecommunications provider has insisted they obtain consent from, have a three-way call with, or attend a store with the violent perpetrator in order to make any changes to their account.

Poor practices by telecommunications providers toward customers experiencing or at risk of DFV include:

- *Inadequate assistance leading to disconnection, restriction or suspension of a consumer's service (i.e. cutting them off)*
- *A lack of understanding of the impacts of DFV and financial hardship including barriers to future access to a service*
- *Mis-selling and inadequate sales practices and checks leading to economic abuse*
- *Inadequate hardship and debt collection practices for victim survivors, including offering unaffordable payment plans*
- *Systemic barriers that prevent victim survivors from separating their telecommunications accounts, despite "clean slate" and "de-link" industry guidelines*
- *Lack of appropriate staff training to deal with DFV*
- *Inadequate internal dispute resolution (IDR) processes*
- *A lack of bill payment options and customers being pressured to enter into direct debit payments*
- *Poor communication between the telecommunications provider and the debt collector which compounded the financial distress*
- *Difficulties and delays experienced by financial counsellors and community lawyers when dealing with telecommunications providers while trying to assist victim survivors of DFV*
- *Lack of clear and consistent practices in relation to redress/compensation decisions*

Our comments are made in light of the new requirements introduced by the Financial Hardship Industry Standard and the proposed revisions to the TCP Code. Although the Financial Hardship Standard requires telecommunications providers to identify and provide timely assistance to those experiencing financial hardship, it does not require providers to have mandatory DFV policies in place to prevent customers from being exploited by perpetrators of DFV or technology-facilitated financial abuse.³ Furthermore, the vague language adopted throughout the proposed revisions to the TCP Code currently appears to limit the extent of positive obligations required of telecommunications providers, and provides very little extra support to customers affected by DFV.⁴

We continue to call for directly enforceable laws which would require telecommunications providers to be more targeted in proactively assisting and identifying people experiencing or at risk of DFV. We also support strong laws that would prevent telecommunications providers from taking credit management action against people experiencing or at risk of DFV, and from selling their debts to debt collectors, especially when those debts have been incurred in their name by violent perpetrators. The areas of concern that could be addressed by direct regulation are further expanded on in ACCAN's position paper on DFV⁵.

Selling practices

Our complaint to ACMA at **Appendix A** evidences the large number case studies of predatory or poor sales practices used by telecommunications providers. We continue to call on ACMA and other regulators to investigate and take enforcement action against telecommunications providers who trick or pressure consumers into purchasing products or services that they cannot afford. Some of the practices by telecommunications providers that our services have recently observed include:

- *Overcommitting vulnerable customers by selling them multiple unaffordable plans or products — in a number of instances between 5 to 7 devices*
- *Insufficient checks to prevent the contracting of products and services into the names of people experiencing vulnerability (including First Nation customers and victim survivors of DFV) when they received no benefit from those products and services*
- *Misleading representations and charging customers for additional products, such as smart watches, after telling customers those products were free*
- *Unconscionably forcing customers onto unsuitable direct debit arrangements in order to allow customers access to cheaper plans, when they are experiencing financial hardship*

We submit that the proposed changes to the TCP Code to address poor sales practices, including the proposed revisions of the credit assessment provisions, will do little to prevent the systemic culture of incentivised mis-selling in the telecommunications sector. The changes do not ensure telecommunications providers will make any meaningful inquiries or verify a customer's financial circumstances before they are sold products or services. Nor do the changes require providers to retain the necessary documentation or evidence required to verify that it complied with responsible selling practices. The proposed scaled down credit assessment provisions for existing customers will likely do little to prevent the sale of multiple or expensive products to customers.

The ACCC also raised significant concerns regarding the inadequacy of protections to prevent poor sales practices in their response to the current TCP proposal⁶.

³ CALC media release. 'Relief for telco customers in financial hardship welcomed – but much more needs to be done'. February 2024. Available at: <https://consumeraction.org.au/relief-for-telco-customers-in-financial-hardship-welcomed-but-much-more-needs-to-be-done/>

⁴ CALC media release. 'Consumer fail: New Telco Code proposal delivers little for vulnerable consumers'. January 2024. Available at: <https://consumeraction.org.au/consumer-fail-new-telco-code-proposal-delivers-little-for-vulnerable-consumers/>

⁵ ACCAN. October 2023. 'ACCAN Policy Position Domestic and Family Violence'. Available at: <https://accan.org.au/accans-work/policy-positions/2253-domestic-and-family-violence>

⁶ ACCC. January 2024. 'Review of the Telecommunications Consumer Protections Code: ACCC response to 17 November 2023 Drafting Committee package'. Available at: https://www.accc.gov.au/system/files/accc-response-tcp-code-drafting-committee-package_o.pdf

Enforcement of non-compliance to protect people from scams

Australians are losing life-changing amounts of money to scams every day. Although the vast majority of scam losses are facilitated through on-line banking platforms, the ability for scammers to take control of alphanumeric sender IDs to trick consumers has contributed to the way scammers have been able to perpetrate these crimes.⁷

Scams where alphanumeric sender IDs have been easily and systematically hijacked by scammers have been most recently [highlighted in the media](#) in relation to the high profile HSBC scam where customers have lost millions of dollars to scammers. Despite authorities and the bank being aware of the scam, no one can stop it.⁸ The scams crisis is also severely impacting the most vulnerable in our society with the latest ACCC Scamwatch report showing the continued disproportionate impact on older Australians.⁹

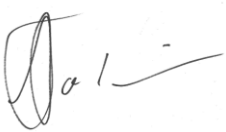
We note that the Federal Government is currently consulting on a proposal to introduce a SMS Sender ID Registry, and that ACMA has recently reported on its enforcement action against a number of providers who have breached existing scams rules.¹⁰ However, the voluntary codes in place across the telecommunications sector has not prevented billions of scam calls and text messages from reaching customers¹¹, resulting in significant non-compliance with current SMS scam rules¹², and has highlighted the need for further strong enforcement measures by ACMA in this space.

'APPENDIX A' is located at the end of this document.

Please contact Senior Policy Officer **David Hofierka** at **Consumer Action Law Centre** on 03 9670 5088 or at david.h@consumeraction.org.au if you have any questions about this submission.

Yours Sincerely,

CONSUMER ACTION LAW CENTRE



Stephanie Tonkin | CEO

CONSUMER ACTION LAW CENTRE



Joseph Nunweek | Legal Director, Economic Justice Program

WESTJUSTICE

⁷ 38% of all scam contacts have been by text message. ACCC. 2024. National Anti-Scam Centre's October to December 2023 quarterly update. p.9. Available at: https://www.accc.gov.au/system/files/National-Anti-Scam-Centre-in-Action_quarterly-update-October-to-December-2023_o.pdf

⁸ More than 420 reports about HSBC scams were made to ACCC's Scamwatch in 2023. See: <https://www.abc.net.au/news/2024-03-08/hsbc-customers-demand-spoof-scam-action/103549516> ; <https://www.abc.net.au/listen/programs/am/hsbc-customers-in-impersonation-scam/103563480>

⁹ Australians over 65 years of age accounted for 20.49% of scam losses. ACCC. 2024. National Anti-Scam Centre's October to December 2023 quarterly update. p.35. Available at: https://www.accc.gov.au/system/files/National-Anti-Scam-Centre-in-Action_quarterly-update-October-to-December-2023_o.pdf

¹⁰ Available at: <https://www.acma.gov.au/publications/2024-02/report/action-scams-spam-and-telemarketing-october-december-2023>

¹¹ See: <https://www.theage.com.au/national/bombarded-with-scam-calls-and-messages-there-s-a-way-to-stop-them-20231219-p5eshi.html>

¹² See: <https://www.itnews.com.au/news/government-moves-to-expand-sms-sender-id-registry-605237> and <https://www.itnews.com.au/news/sender-id-registry-could-be-voluntary-or-mandatory-596578>

About Consumer Action

Consumer Action is an independent, not-for profit consumer organisation with deep expertise in consumer and consumer credit laws, policy and direct knowledge of people's experience of modern markets. We work for a just marketplace, where people have power and business plays fair. We make life easier for people experiencing vulnerability and disadvantage in Australia, through financial counselling, legal advice, legal representation, policy work and campaigns. Based in Melbourne, our direct services assist Victorians and our advocacy supports a just marketplace for all Australians.

About WEstjustice

WEstjustice provides free legal services and financial counselling to people who live, work, or study in the cities of Wyndham, Maribyrnong and Hobsons Bay, in Melbourne's western suburbs. We have offices in Werribee and Footscray, as well as youth legal branch in Sunshine, and outreach across the west. Our services include: legal information, advice and casework, duty lawyer services, community legal education, community projects, and law reform and advocacy.

APPENDIX A – February 2024, Regulator Compliant to ACMA

Friday, 9 February 2024

By email only:

Australian Communications and Media Authority

info@acma.gov.au

Dear Australian Communications and Media Authority ,

Re: Systemic complaint against Optus

We submit this complaint about Optus with the attached supporting deidentified case studies, as we have found multiple clients experiencing similar issues by Optus. We note that the 17 case studies we have provided have been deidentified, however there are some clients who are willing to be identified for further information if relevant to any ongoing investigation. The following organisations have provided case studies:

- Financial Rights Legal Centre (FRLC)
- Westjustice
- Economic Abuse Reference Group (EARG)
- Victorian Aboriginal Legal Service (VALS)
- Consumer Action Law Centre (CALC)

The case studies demonstrate concerning systemic issues in Optus' practices regarding consumers experiencing Domestic and Family Violence (DFV) and mis-selling, and their consequential effects including financial hardship and life-threatening safety risks. We submit that these cases warrant your urgent investigation.

Specifically, these cases outline areas where Optus may have breached:

- the Telecommunications Consumer Protections Code ("TCP Code");
- the G660:2023 Assisting Consumers Affected by Domestic and Family Violence Code;
- C566 Number Management – Use of Numbers by Customers Industry Code;
- C525 Handling of Life Threatening and Unwelcome Communications Industry Code;
- the *Telecommunications (Consumer Complaints Handling) Industry Standard 2018 Cth*; and
- the *Competition and Consumer Act 2010 Cth* - Australian Consumer Law (the ACL)

Our key areas of concern affecting these consumers are:

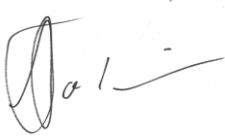
- Mis-selling of unaffordable products and services and the compounding effects of this practice on financial hardship and family violence
- Inadequate support and IDR processes with regard to hardship and family violence
- Lack of training and understanding from Optus staff about the dynamics and safety risks associated with family violence
- Disconnection, debt collection and barriers to service access to victim survivors

Please find enclosed

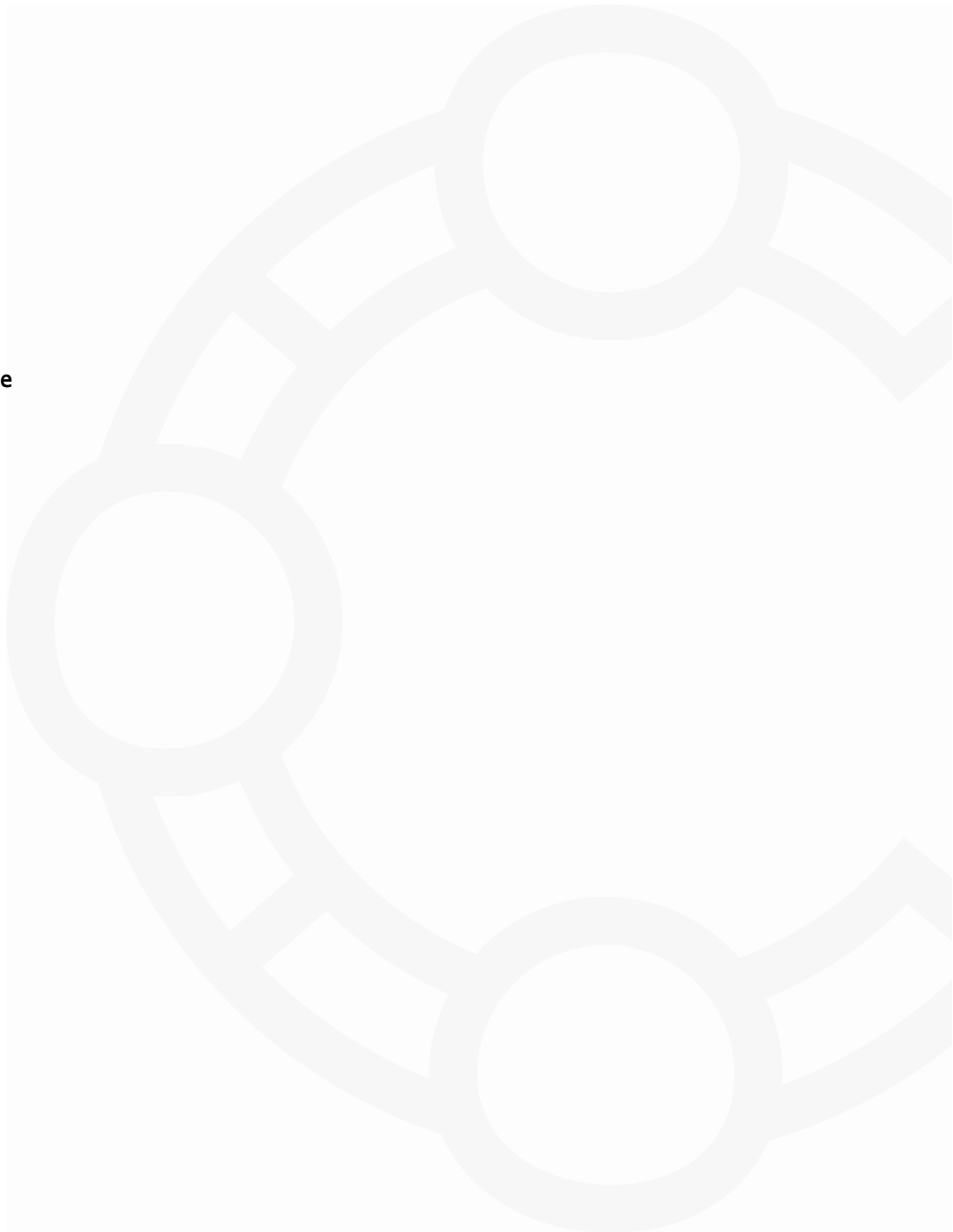
1. 17 Supportive case studies – deidentified
2. Complaints summary schedule
3. Relevant references

Please contact us on 03 9670 5088 or eirene@consumeraction.org.au if you would like to discuss this with me directly or to arrange a meeting.

Yours faithfully,



Stephanie Tonkin
Chief Executive Officer
Consumer Action Law Centre



1. Case studies

These complaints have been made by consumers who have not consented to being contacted at this stage, and therefore are provided as deidentified case studies. All names have been changed. Please refer to case study schedule for summaries, and contact details if further information is of interest.

a. Sophie – Consumer Action Law Centre

Sophie* is a single mother with a young child who recently escaped family violence (FV) she has been experiencing by her ex-partner for over 10 years. Her ex-partner's abuse is causing her serious health issues including complex PTSD and financial hardship. After being forced to flee interstate, Sophie's Centrelink payments have stopped, leaving her without income. Sophie has been unable to secure a new home, and is having to rely on friends for accommodation for herself and her child.

Sophie called the National Debt Helpline for assistance, stating she was feeling overwhelmed and struggling to keep up with all the debts. Sophie's ex-partner had taken out multiple contracts in her name including his phone, and internet she has been forced to continue paying for even after escaping the home.

Over the last 12 months, Sophie called Optus on many occasions, repeatedly having to disclose her experience of FV. She detailed her ex-partner was controlling her bank accounts, was stalking her and using tracking devices, and had opened accounts in her name. With support from her social worker, Sophie was able to regain security on her online bank accounts, however she was still having to pay for the perpetrators' telco accounts.

Sophie asked for assistance from Optus under family violence and financial hardship grounds, including a request to cancel the account, waive recent bills under hardship grounds, and for reimbursement of ongoing charges for an additional phone that her ex-partner smashed.

On each occasion, Optus' response was the same. Sophie states: *"I gave up trying to contact them. I had to keep repeating myself and nothing ended up happening in the end. They just kept telling me I just had to pay"*. On one occasion she told Optus she was considering reporting her matter to the Telecommunication Industry Ombudsman (TIO), Optus agreed to waive only one month's payment.

Sophie has constantly been threatened with disconnection and debt collection by Optus in relation to the two additional accounts and despite all efforts by Sophie and a financial counsellor assisting her, she has been unable to have her matter appropriately resolved. She states Optus has continued to pursue her for account debts related to her ex-partner. Most recently, she received a \$700 overdue bill in relation to one of the accounts she received no benefit from and cannot afford.



At time of writing, Sophie has moved interstate. Optus has disconnected her phone, and she has had to purchase a new SIM and plan with a different telco retailer, explaining that having a working phone *"is the only way I find out about my ex's court dates, and my safety"*. She is still not sure if she received a waiver, or a resolution on her case with Optus.

- Inadequate sales practices and checks leading to economic abuse
- Lack of appropriate staff training to deal with family violence
- Lack of clear and consistent practices in relation to redress/compensation decisions
- Inadequate IDR processes

b. Alan – Consumer Action Law Centre

Alan* contacted the National Debt Helpline in May 2023 after leaving an abusive same-sex relationship. He has been struggling to meet basic living expenses for several years on his modest income and has been overwhelmed by numerous debt matters, including a number of phone debts. Alan's financial situation has only further deteriorated due to the domestic violence, which saw him paying for several Optus services and devices for himself and his ex-partner though accounts placed under his name.

Alan states that approximately two years ago, he was caught unaware when Optus changed one of his accounts to direct debit. He says that he'd been an Optus customer for many years prior to this and had always paid his bills through other payment methods. As the direct debit dates didn't align with his income payments, he began to default on his account and was disconnected by Optus on approximately four occasions. As a result, he incurred additional Optus fees and charges, including multiple \$15 late payment charges. These charges compounded his financial hardship, making it difficult for him to pay for food and rent. He states he was even forced to change banks to stop Optus automatically direct debiting his account when he had insufficient funds.

After Alan left the abusive relationship, he arranged for Optus to transfer his ex-partner's phone plan out of his name. He also asked Optus if he could consolidate his two existing accounts into one to try to save money and access cheaper plans. However, Optus said this was not possible unless he agreed to place all his accounts onto direct debit arrangements as it was required under their new terms and conditions.

Alan now fears Optus has put his safety at risk, as he recently discovered that Optus did not process the transfer properly. Alan states Optus has acknowledged that it failed to follow its proper process in this regard. Alan states he can still see his ex-partner's phone plan on his Optus app and believes his ex-partner must also be able to see his details via the app. Alan says his phone plan has on a number of occasions become inactive and believes his ex-partner is somehow doing this through the app. Alan also states his ex-partner is now contacting and threatening him, accusing Alan of sabotaging the phone transfer.

When Alan raised these concerns, Optus stated that they would need to organise a three-way call with his ex-partner, despite Alan providing a copy of an intervention order (IVO) restricting contact to protect him from his ex-partner. Alan states that when he was transferred to the Optus domestic violence team, they also said they couldn't help him and he needed to deal with the Optus transfer team again. Alan has recently been forced to obtain a new sim card and change his passwords to try to resolve this issue.

In addition, Alan states Optus has on a number of occasions charged him two months' payment upfront, including after the most recent changes to his account when his ex-partner's phone was transferred. Alan says he has never understood or had it properly explained why these extra charges are required and on no occasion has

Optus agreed to refund him for the extra month's payment. He states Optus simply says it's a necessary 'pro-rata' charge and 'that's the way it is', which has left him confused and unsure about his rights.

Alan says his interactions with Optus over the years have been very stressful. He commented about his frustration with the Optus complaints process, including unresolved complaints often being met with Optus just opening another complaint loop, which has forced him to lodge several complaints with the Telecommunications Industry Ombudsman.

- Inadequate sales practices and checks leading to economic abuse
- A lack of understanding of the impacts of family violence and financial hardship including creating barriers to future access of a service
- Inadequate assistance leading to disconnection
- Lack of appropriate staff training to deal with family violence
- Inadequate IDR processes
- A lack of bill payment options and customers

c. Amy – Victorian Aboriginal Legal Service

Amy* is a proud Aboriginal woman. She is a survivor of family violence and was coerced by her ex-partner to get a phone out in her name for his benefit after he promised he would pay for it. She no longer has any contact with him but was left with a large Optus debt of more than \$2,000.

By the time Amy reached out for assistance, her partner had sold the phone, the debt had been sold by Optus, and she was being pursued by a debt collector. Being a single mother and relying solely on Centrelink benefits, she had no idea how she would be able to repay this debt.

Amy remembers applying for the phone with Optus online and then speaking with an Optus representative to complete the purchase. She says during the call there were multiple red flags that that the Optus representative should have picked up on to make further enquiries. Amy says her ex-partner knew what to say to get what he wanted. He was telling her what to say to Optus in order to get accepted. Amy says when she was giving the information to Optus over the phone, it should have been obvious that she wasn't answering them properly because ex-partner was in her face and the Optus representative should have picked up on that. She says the Optus representative would have heard him in the background. She says they should have been able to notice that somebody was talking to her and that she was listening to someone else and not just them. Amy says the Optus representative never asked her who was the other person there on the line with her.

Amy states that she remembers wishing that the Optus representative had offered to call her back at a different time, as she would have definitely agreed to that in the hope that when they'd call back her ex-partner would have been busy.



Amy says she still doesn't understand how she managed to get approved for the phone plan by Optus, due to her bad credit rating and the fact that her only income was from Centrelink.

- Inadequate sales practices and checks leading to economic abuse
- A lack of understanding of the impacts of family violence and financial hardship including creating barriers to future access of a service
- Inadequate hardship and debt collection practices for victim survivors
- Lack of appropriate staff training to deal with family violence
- Inadequate IDR processes

d. Michaela – Consumer Action Law Centre

Michaela* is a single woman over 55 living on the Aged Pension who lives alone in her caravan in regional Victoria. Recently, Michaela became a victim of a romance scam, the scammer coerced her into signing up to six new phone plans in her own name (two with Optus, four with Telstra), including paying off the handsets at \$2000 each.

"I've got no other debts. Living with \$180 a fortnight for months now. I've been struggling just on the pension. Now with six additional phones, I can't afford to pay them."

No alarm bells appear to have been triggered, and Optus asked no further questions of Michaela before signing her up to two mobile phone plans. Michaela is struggling to afford her grocery costs and is not connected to other emergency relief or community support. Before seeking support, Michaela was looking at selling her caravan because of the phone debt.

Michaela noted that she had been struggling with only the pension as income, however the additional six phone plans had put her in significant financial stress.

Michaela called the National Debt Helpline to seek support. When a Financial Counsellor asked if Optus had discussed signing two phone contracts before signing up to them, Michaela couldn't recall being asked any questions. Michaela stated, *"I've started paying for them because I thought I'd get into trouble if I didn't make payments"*.

After seeking advice, Michaela cancelled her direct debits, and was supported to lodge a complaint with the TIO. In response to Michaela's complaint and request for compensation, she states *"Optus have said no, I have to pay all the charges"*.

- Mis-selling
- Lack of clear and consistent practices in relation to redress/compensation decisions

Since lodging her complaint with the TIO over four weeks ago, Michaela's personal phone has been disconnected after non-payment due to her severe financial hardship from multiple phone accounts.



e. Tim – Consumer Action Law Centre

Tim* contacted the National Debt Helpline in May 2023 after being unable to obtain suitable hardship assistance from Optus, despite explaining that he and his six children had recently escaped family violence. As Tim began to tell his story, it became clear he was also overcommitted. He said that, during COVID, he had signed up with Optus to pay for multiple phone plans and devices, including a watch, and four to five iPads, which he could not afford. One of the mobile plans was for his abusive then-partner, which he received no benefit from. He soon fell behind on payments.

Tim is the sole carer of his children, one of whom has a disability, and the family is at risk of homelessness. He had been left with multiple debts after the abusive relationship and has found it very difficult to pay for food and essential living expenses for his children on his Centrelink payments.

To help him catch up on the arrears, Optus offered Tim a payment plan. He told Optus that the plan was unaffordable for him, but Optus would not consider accepting a lower amount. When Tim eventually missed a scheduled payment, his phone and his children's iPads were disconnected. This was very traumatic for the family, especially for Tim's daughter, who was unable to contact him from school. She had only just agreed to go back to school on the condition that she could reach her father at any time. She had developed a fear of being separated from Tim because of the family violence they had experienced.

After making a complaint to the TIO, Optus offered a partial waiver and another unaffordable payment plan of \$150pwk, which was significantly more than the first unaffordable payment plan. Optus stated they could not assist Tim any further unless he obtained a financial counsellor to advocate on his behalf.

After more than a year of trying to resolve his matter with Optus, Tim was referred by the National Debt Helpline to a local financial counsellor who was able to negotiate an acceptable resolution with Optus on his behalf. Tim commented that, before the financial counsellor began helping him, he had struggled for hours at a time trying to make Optus understand his situation, including by text message. He said this was in stark contrast to the hardship assistance he received from his energy and water service providers, who offered him suitable assistance from the start, including longer term payment plans he could afford and much needed additional support.

- Mis-selling, inadequate sales practices and checks
- A lack of understanding of the impacts of family violence and financial hardship including creating barriers to future access of a service
- Inadequate assistance leading to disconnection
- Inadequate debt collection practices for victim survivors
- lack of appropriate staff training to deal with family violence
- Inadequate IDR processes

f. Jasmine – Consumer Action Law Centre

Jasmine* is a single mum with two children under 10 years old, whose sole income is Centrelink.

Jasmine was coerced into purchasing four devices and phone plans with Optus in her name for her ex-husband and mother, totalling over \$370 per month. Additionally, her mother had used her credit card without her consent to buy an additional phone.

- Mis-selling, inadequate sales practices and checks leading to economic abuse
- A lack of understanding of the impacts of family violence and financial hardship including creating barriers to future access of a service
- Inadequate hardship and debt collection practices for victim survivors
- Lack of appropriate staff training to deal with family violence
- Inadequate IDR processes

Jasmine's partner had been perpetrating family violence against her, and they subsequently divorced. . Jasmine was forced to take out an IVO against her ex-partner and her mother for her and her children's safety.

When Jasmine contacted the NDH, she stated that she was receiving bills from Optus that she can't afford to pay, and despite attempting to arrange hardship, Optus are being very slow at resolving the issue. She was unable to get a phone in her name, or any credit, and the additional impacts on her credit score had prevented her from getting a car loan.

g. Elif - Consumer Action Law Centre

Elif* contacted the National Debt Helpline in September 2022 for support with a large number of debts that had accrued while she was in an abusive relationship, and after many months of being unable to resolve her matter with Optus. She had an intervention order (IVO) against her ex-partner for several years and he does not know her whereabouts. While in the abusive relationship, Elif was required to pay the debts her ex accrued in her name, and maintain payments owing on credit cards, personal loans, buy now pay later products and an account with Optus, despite her partner receiving all the benefit. The ex-partner also took out three handsets and accessories under her Optus account for his benefit.

After Elif escaped, she contacted Optus and disclosed her circumstances, requesting support including a debt waiver on the devices continuing to be used by her ex-partner. Despite being aware of the extent of the family violence, Optus requested that Elif attend an Optus store with her ex-partner to organise a change of ownership.

When Elif explained that she could not see her ex-partner because of family violence, the customer service representative insisted that attending an Optus store with her ex-partner was the only way any change to the contracts could take place. By the time our financial counsellor began acting on Elif's behalf, Optus had sold the outstanding debt to a debt collection agency.

Our financial counsellor wrote to the debt collector seeking a full waiver of the debt and compensation in the amount of \$1,500 for non-financial loss, arguing that Optus' poor response to Elif's disclosure of family violence was traumatising for Elif and caused her significant distress.

The debt collector agreed to waive and remove the relevant default listing from Elif's credit report, and advised the financial counsellor to raise the compensation claim with Optus directly. When the financial counsellor contacted Optus to request call recordings and compensation, Optus denied it had done anything wrong, and at any rate could not provide the recordings as it was their practice to delete them after three months. Optus stated that the change of ownership process was standard procedure, that it was

not reasonable to expect that every Optus customer service representative should understand the intricacies of family violence, and that they were sure that no harm was intended.

Optus finally offered to pay Elif \$200 in compensation on an ex-gratia basis, but insisted that Elif was still liable to pay an account balance of more than \$2,000 as Optus had taken back control of the debt, even after the financial counsellor provided written confirmation from the debt collector that a waiver had already been agreed to.

After escalating the matter within Optus and being forced to explain Elif's situation a number of times over a four-week period, the financial counsellor was finally informed by Optus that the debt had in fact not been bought back from the debt collector. During this period, the financial counsellor found communication with Optus very difficult. He was required to speak to different overseas-based customer service representative on multiple occasions and received a number of confusing emails from Optus that were unclear and difficult to understand. The financial counsellor then contacted the debt collector who confirmed that the debt had been waived on their end.

h. Margaret – Consumer Action Law Centre

Margaret* is chronically ill and lives alone on a sole Centrelink income. She has been struggling to afford her bills and has fallen into multiple debts including pawnbrokers, and resorted to Buy Now Pay Later accounts, which due to their arrears have been blocked.

- Mis-selling, inadequate sales practices and checks leading to economic abuse
- A lack of understanding of the impacts of family violence and financial hardship including creating barriers to future access of a service
- Inadequate hardship and debt collection practices for victim survivors
- Poor communication between the telco provider and the debt collector which compounded the financial distress
- Lack of appropriate staff training to deal with family violence
- Lack of clear and consistent practices in relation to compensation decisions
- Inadequate IDR processes

Margaret had recently bought a new phone and watch on a plan with Optus. In the sales process, she was told that the watch was free. Since purchasing the phone, Margaret states she doesn't use it as it has poor battery life.

Margaret has fallen into arrears on her Optus account since purchasing the plan and requires further advocacy due to her multiple vulnerabilities and financial hardship.

i. Rose – Westjustice

Rose* had a long history of family violence. Rose told us, that despite an intervention order being in place the person using violence was continuing to breach the order and was continuing to economically abuse her. Westjustice uncovered that Rose was owing almost \$6,000 for three different accounts.

Rose was forced into putting three phone contracts under her name. Only one of the contracts was for her own personal use. The other two contracts were for phones not in her possession and not ever used by her.

Rose told us that she had contacted Optus after they threatened to restrict her account. She said that she was sent from department to department trying to speak to the hardship team. Rose disclosed Family Violence multiple times during the call and was ultimately told the best Optus could do was to give her a 14 day hold on the enforcement action. Rose was left feeling deflated and frustrated at the inadequate solutions she was provided with and felt that she was not believed and was not treated with dignity and respect after disclosing violence.

Westjustice requested the cancellation of the two mobile accounts not for her use and sought a waiver of any outstanding balance on grounds of Family violence. After this request, a series of concerning behaviour ensued from Optus including the following;

- **The language they used was not appropriate or trauma informed**, they told us they had to look into “what really happened with the account” – similar language had previously led to our client feeling like she wasn’t believed.
- **Response was not provided in timely manner** - Optus told Westjustice on five separate occasions that they would contact us within 2-3 business days, yet that indicated time was not once adhered to and in fact it ultimately took four months to resolve the complaint.
- On several occasions Westjustice was provided with **entirely unsatisfactory solutions** including:
 - Refusing to cancel the contracts that were not for Rose’s use and purporting to increase the amount due to the cancelled device lump sum costs which was never discussed or explained during the cancellation process;
 - Pressuring Rose to enter into unsuitable payment plans – one offer suggested that Rose be placed on a payment plan of nearly \$360 per fortnight for one contract. And a further arrangement of almost \$400 per fortnight for the other service. A late offer was for \$150 payment plan per fortnight. This was despite Optus being on notice about Rose’s financial hardship.
 - Optus offered alternatively to sell the debt to a debt collector for Rose to deal with via the debt collector’s hardship processes.
 - Optus made another offer to not pursue the two contract debts, but conditional on Rose only being allowed to use pre-paid services.
 - Optus telling Westjustice that they should not lodge a complaint with the TIO as it doesn’t deal with systemic issues.
- **Contacting Rose directly** - Optus insisted on contacting Rose directly to obtain her verbal consent on a number of occasions when Westjustice tried to speak with them (despite written authorization having been provided). Whilst Westjustice was acting, Optus also messaged Rose stating that they had cancelled her hardship case causing her further distress and anxiety.

- Mis-selling, inadequate sales practices and checks leading to economic abuse
- A lack of understanding of the impacts of family violence and financial hardship including creating barriers to future access of a service
- Inadequate hardship and debt collection practices for victim survivors
- Lack of appropriate staff training to deal with family violence
- Inadequate IDR processes

j. Jane – Westjustice



Jane* is a victim of family violence perpetrated by her ex-husband, to whom she had been married for 17 years but they have now separated. A family violence intervention order is in place.

Jane told WEstjustice that she and her former partner share one Optus mobile account with two separate mobile numbers. One phone number belongs to Jane and the other phone number belongs to her ex-partner. Both phone numbers were registered with Optus under Jane's ex-husband's name. Further, Jane's ex-husband was also the account holder for their home's NBN account. This essentially meant that Jane had no authority to make any changes to either account.

Since the separation, Jane's ex-husband was not financially contributing to anything. Jane was solely responsible for paying their phone bill and the NBN by herself because she didn't want to risk being disconnected. This caused her financial stress because she was essentially paying for his phone bill to keep her number active.

Jane contacted Optus on numerous occasions and informed them that she's experiencing family violence perpetrated by her ex-husband, which has led to separation, and there is an IVO in place. Jane subsequently requested that Optus de-link her phone number from her ex-partner's account and create a separate account in her own name, and requested the same with the NBN account. Despite various requests, Optus refused to do so unless they had permission from the perpetrator.

Westjustice contacted Optus and explained the circumstances surrounding family violence and informed them that there's an IVO in place that prohibits communication between them. Therefore, Jane could not contact her ex-husband to seek permission to de-link the phone numbers. Westjustice pointed out the specific provisions of the industry guidelines to Optus and expressed to them that Jane's safety is at risk as her ex-husband still has access to her call records. Westjustice requested that they create a new and separate 'clean slate account' for Jane in compliance with the industry guidelines.

Optus refused to action our request and insisted that they must first seek permission from the perpetrator. In the end, Jane had no choice but to allow Optus to contact the perpetrator to seek permission before they actioned the request.

- A lack of understanding of the impacts of family violence and financial hardship including creating barriers to future access of a service
- Systemic barriers that prevent victim survivors from separating their telco accounts, despite "clean slate" and "de-link" industry guidelines.
- Lack of appropriate staff training to deal with family violence

k. Lee – Economic Abuse Reference Group

Lee* had a debt owing to Optus that was incurred in circumstances of financial abuse. The lawyer representing Lee spent four months playing phone tag with Optus.

After the lawyer provided a third-party authority form signed by Lee, Optus emailed the lawyer asking Lee to confirm that she wanted to change the email address on her account to the lawyer's email address for all future correspondence, and did not respond to the requests for information and a waiver in the lawyer's correspondence. Optus refused to send anything in writing or via email. Every call the lawyer received was from a different customer service representative, there were long hold times and the representative often ended the call abruptly even after the lawyer managed to get through. The lawyer repeatedly reiterated Lee's vulnerability and experience of domestic violence.

After four months of attempted contact, the lawyer was able to reach a customer service representative at Optus who informed them that the debt needed to be resolved directly with the debt collection company, Panthera.

- Inadequate hardship and debt collection practices for victim survivors
- Lack of appropriate staff training to deal with family violence

I. “K” – Financial Rights

K* is a 70 year old woman, receiving the age pension as her sole source of income, and lives in a private rental. She contacted Financial Rights in August 2023 as she is considering bankruptcy due to \$28,000 she owes Optus for phones and phone plans.

K told us she applied online for a total of seven phones with Optus in the last year or two. K now believes she has been scammed as she was being pressured to obtain money to assist someone whom she met online, who told her that he is living on an oil rig and needed the money for an operation. K was able to sell the phones obtained through her applications to give to the scammer.

K wasn’t queried in great detail by Optus as to why she needed so many phone contracts. If further enquiries had been made, the scam situation may have been able to be prevented.

K told Optus that she was getting the phones for her grandchildren each time she applied, however she was allowed to bear responsibility for the contract each time in her sole name. She was declined once but sixmonths later she was able to get another phone plus plan. K says she advised the telco her sole source of income is a Centrelink pension when she applied for the phones. She was allowed to accumulate seven phone contracts, which were relatively expensive and unaffordable for her.

The repayments to Optus were about \$500 per month. She has now been advised that the repayments are \$900 per month, which she cannot afford. K also has an internet account with Optus, and she wants to keep the internet and her mobile phone. K is a vulnerable customer who has been placed in a very difficult financial situation due to this experience.

Under the Telecommunications Consumer Protections Code, the telecommunications provider is to have a responsible approach to selling and must provide telecommunications products responsibly. It appears unlikely that any sales representatives for Optus undertook a credit assessment and assessed K’s capacity to pay, for each of the seven mobile phone contracts.

- Mis-selling
- Inadequate sales practices leading to financial hardship

m. Jennifer – Financial Rights

Jennifer* is a single parent who contacted Financial Rights in October 2023. She has experienced domestic violence and homelessness in recent months. During that time, she fell into arrears of \$750. Her monthly repayments are \$250pm. She tried negotiating a payment plan with Optus directly and they refused, telling her that her monthly plan does not allow this.

- Inadequate IDR processes
- Lack of clear and consistent practices in relation to compensation decisions

A financial counsellor called Optus with the client to arrange hardship assistance. Optus waived \$500 of the arrears and the client agreed to repay the remaining amount which she stated she can afford. The monthly ongoing plans on her two phones reduced by \$30 per month each, and an additional watch plan will be rated for free for next 12 months, saving her another \$10 per month.

n. **"M" – Financial Rights**

"M" is a First Nations woman, who contacted Financial Rights in June 2023 about a debt with Optus she and her husband were trying to dispute. The debt involved a phone M had bought, and the purchase had a complementary smartwatch. Shortly after purchasing, M was charged fees for the watch, which Optus conceded was inextricably linked to the phone plan, even though the watch was supposed to be able to operate on a stand-alone basis, with no requirement for a plan. M tried to address the issue with Optus on numerous occasions to no avail, before the matter was passed on to Optus' debt collectors. M suffers from anxiety and found the harassment too much, so contacted Financial Rights for help.

Optus agreed to waive the entire remaining debt of almost \$1,500, which included the pay-out cost of a phone. It was never clear how the billing process had been allowed to run through to the stage of being given to collectors, although the agent at Optus did admit the episode was very confusing and that the behaviour of the collectors - who continued to bombard M with SMS's throughout the engagement requiring payment - was inappropriate.

- Mis-selling
- Inadequate sales practices leading to financial hardship

o. **Josie – Financial Rights**

Josie* contacted Financial Rights in September 2023. She has a mild intellectual disability and has a range of health conditions. Her sole source of income is Jobseeker, and she has applied for the Disability Support Pension. She receives in-home care from a NDIS support worker.

Josie escaped a domestic violence situation in August 2023, where she was subject to financial abuse and threats of physical violence/ death threats by a friend who she shared a rental property with. An AVO was taken out by the police.

Shortly after, she was transported to hospital via ambulance, during which she lost her mobile device. Josie and her support worker contacted Optus on six separate occasions trying to transfer her mobile phone number to a new SIM card. She continued to be charged by Optus for the lost device and monthly service even though she had no access to the mobile number.

A financial counsellor contacted Optus for Josie. Optus finally moved Josie's mobile number to a new SIM card, waived the device payout of \$1k and waived the monthly fee for the two months she was unable to access her mobile number.

- A lack of understanding of the impacts of family violence and financial hardship including creating barriers to future access of a service
- Lack of appropriate staff training to deal with family violence
- Inadequate IDR processes
- Systemic barriers that prevent victim survivors from separating their telco accounts, despite "clean slate" and "de-link" industry guidelines.

p. **Lisa – Financial Rights**

Lisa* is an Aboriginal woman who is a single parent of five children (ages 3-17). Her sole source of income is the Centrelink Parenting Payment. She escaped her family domestic violence situation in late 2020, and contacted Financial Rights in June 2023.

Lisa's ex-husband set up an account in Lisa's name for four mobile services, plus devices and accessories. Lisa contacted Optus on multiple occasions attempting to self-advocate as she was unable to afford these services and told them that the monthly cost was pushing her into financial hardship. Lisa wanted ongoing access to the mobile device and service numbers as part of her safety plan, as her perpetrator/ ex-husband had moved into the suburb she lives in after the AVO taken out by the police expired in early 2023.

Optus initially dealt with Lisa under their financial hardship policy rather than their family domestic violence policy. Under their financial hardship policy, the monthly payment amount for the four mobile services for a 12-month period was temporarily reduced as Lisa was seen to be unwilling to return the mobile device and give up the two mobile numbers she and her eldest child were using.

The 'unwillingness' was due to needed to have access to a mobile device and the two mobile numbers to keep herself and her children safe. The reduced amount was still unaffordable for Lisa.

Financial Rights submitted a debt waiver request on the grounds of family domestic violence. Optus then waived the arrears and device payout totalling over \$2,600, and moved two mobile services belonging to client and her eldest child from contract to prepaid services. Optus also cancelled the two other services not in use without penalty.

Without formal representation, Lisa would not have obtained the same outcome. Optus' conduct in not identifying and applying its DV policies may be systemic, as this client's situation is not unique.

- Mis-selling and Inadequate sales practices and checks leading to economic abuse
- Inadequate IDR processes
- A lack of understanding of the impacts of family violence and financial hardship including creating barriers to future access of a service
- Systemic barriers that prevent victim survivors from separating their telco accounts, despite "clean slate" and "de-link" industry guidelines.

q. **Kara – Economic Abuse Reference Group**

Kara* was in a five-year relationship characterised by severe physical, emotional and financial abuse. She was coerced to provide her phone pin and passwords to her now-ex partner, with threats of physical abuse if she changed them or didn't provide them. He was unable to obtain a post-paid account of his own due to his poor credit history. To obtain more money for his own benefit, he ordered mobile phones and upgrades on her account, which he then pawned for cash.

We wrote to Optus explaining the circumstances and seeking that the outstanding handset payments be waived and did not receive a response.



- Mis-selling
- Inadequate sales practices and checks leading to economic abuse
- Inadequate IDR processes
- A lack of understanding of the impacts of family violence and financial hardship including creating barriers to future access of a service
- Lack of clear and consistent practices in relation to compensation decisions
- Inadequate IDR processes



2. Complaints Summary Schedule:

Case Name	Complaint type	Case summary	Systemic issues
Case studies			
a) Sophie Consumer Action Law Centre (CALC)	Deidentified Contact CALC for further info	Client escaped 10+ years family violence and had incurred perpetrator's accounts in her name that she received no benefit from. Requested Optus reverse the contracts, waive debts and close accounts. After almost 12 months of correspondence, Optus only agreed to waive 1 month payment after client stated she may contact the TIO. Client was disconnected and case remains unresolved.	<ul style="list-style-type: none"> • Inadequate sales practices and checks leading to economic abuse • Lack of appropriate staff training to deal with family violence • Lack of clear and consistent practices in relation to redress/compensation decisions • Inadequate IDR processes
b) Alan CALC	Deidentified Contact CALC for further info	Client was in hardship after having to pay for multiple devices placed in his name due to family violence. Attempted to lower his payments and consolidate accounts, but was forced on to direct debits by Optus. After falling into debt and incurring multiple defaults he was disconnected on four occasions. Additional breaches to his privacy and further risks to his safety occurred after a transfer was actioned incorrectly. Further, Optus stated he was required to conduct a three way call with the perpetrator to conduct a transfer.	<ul style="list-style-type: none"> • Inadequate sales practices and checks leading to economic abuse • A lack of understanding of the impacts of family violence and financial hardship including creating barriers to future access of a service • Inadequate assistance leading to disconnection • Lack of appropriate staff training to deal with family violence • Inadequate IDR processes • A lack of bill payment options and customers being pressured to enter into direct debit payments
c) Amy Victorian Aboriginal Legal Service (VALS)	Deidentified Contact VALS senior lawyer Nicole Stobart for further info	Incurred an account, contract and debt in her name under coercion from an abusive partner. Optus sold the debt to a collector.	<ul style="list-style-type: none"> • Inadequate sales practices and checks leading to economic abuse • A lack of understanding of the impacts of family violence and financial hardship including

	03 8108 3601 nstobart@vals.org.au		<p>creating barriers to future access of a service</p> <ul style="list-style-type: none"> • Inadequate hardship and debt collection practices for victim survivors • Lack of appropriate staff training to deal with family violence • Inadequate IDR processes
d) Michaela CALC	Deidentified	Scammed into taking out 5 phone contracts including 3 phone contracts with Optus, and fell into hardship. After making a TIO complaint requesting contract reversal and compensation, Optus declined the request, stating she had to pay all the charges.	<ul style="list-style-type: none"> • Mis-selling • Lack of clear and consistent practices in relation to redress/compensation decisions
e) Tim CALC	Deidentified	Single father of six children experiencing family violence was unable to obtain suitable hardship assistance after being provided multiple phone plans and six devices, including one he received no benefit from. Instead of reversing the contracts and providing waivers or compensation, Optus arranged an unaffordable payment plan causing extreme financial hardship.	<ul style="list-style-type: none"> • Mis-selling, inadequate sales practices and checks • A lack of understanding of the impacts of family violence and financial hardship including creating barriers to future access of a service • Inadequate assistance leading to disconnection • Inadequate debt collection practices for victim survivors • lack of appropriate staff training to deal with family violence • Inadequate IDR processes
f) Jasmine CALC	Deidentified	Client experiencing family violence was coerced into 4 phone contracts, causing her financial hardship. After requesting hardship, Optus were slow at resolving the issue. Client's credit score also impacted her ability to get a phone for her own use afterwards.	<ul style="list-style-type: none"> • Mis-selling, inadequate sales practices and checks leading to economic abuse • A lack of understanding of the impacts of family violence and financial hardship including creating barriers to future access of a service

			<ul style="list-style-type: none"> • Inadequate hardship and debt collection practices for victim survivors • Lack of appropriate staff training to deal with family violence • Inadequate IDR processes
g) Elif CALC	Deidentified	<p>Client requested a waiver and compensation for three handsets & contracts put in her name by her ex-partner due to family violence.</p> <p>Optus stated the client had to attend a store with the perpetrating ex-partner to conduct a change of ownership.</p> <p>Shortly after, Optus sold the debt.</p>	<ul style="list-style-type: none"> • Mis-selling, inadequate sales practices and checks leading to economic abuse • A lack of understanding of the impacts of family violence and financial hardship including creating barriers to future access of a service • Inadequate hardship and debt collection practices for victim survivors • Poor communication between the telco provider and the debt collector which compounded the financial distress • Lack of appropriate staff training to deal with family violence • Lack of clear and consistent practices in relation to compensation decisions • Inadequate IDR processes
h) Margaret CALC	Deidentified	<p>Client chronically ill and solely on Centrelink income. Fell into multiple debts including BNPL & pawnbrokers after purchasing Optus plan including watch device. Client was led to believe by Optus the watch came free.</p> <p>Client in arrears on Optus account due to hardship, and has received no benefit from the watch.</p>	<ul style="list-style-type: none"> • Mis-selling • Inadequate sales practices leading to financial hardship
i) Rose	Deidentified Contact WJ program	<p>Victim of family violence forced to open 3 accounts incorrectly in her name, two of which she received no benefit.</p>	<ul style="list-style-type: none"> • Mis-selling, inadequate sales practices and checks leading to economic abuse

Westjustice (WJ)	<p>manager Dacia Abela for further info</p> <p>03 9749 7720</p> <p>Dacia@westjustice.org.au</p>	<p>Requested to reverse the contracts and be compensated, however was refused.</p> <p>Optus further threatened to restrict her account after requesting to speak to the hardship team.</p>	<ul style="list-style-type: none"> • A lack of understanding of the impacts of family violence and financial hardship including creating barriers to future access of a service • Inadequate hardship and debt collection practices for victim survivors • Lack of appropriate staff training to deal with family violence • Inadequate IDR processes
j) Jane Westjustice	<p>Deidentified</p> <p>Contact WJ program manager Dacia Abela for further info</p> <p>03 9749 7720</p> <p>Dacia@westjustice.org.au</p>	<p>Client was unable to change her phone number, despite paying for both perpetrator & her phone, and internet plan. Client had disclosed family violence and requested resolution including de-linking her account, however was declined on ground that they required permission from the perpetrator.</p> <p>After legal assistance requested a “clean slate account” under industry guidelines, Optus again refused, stating they require permission from the perpetrator.</p>	<ul style="list-style-type: none"> • A lack of understanding of the impacts of family violence and financial hardship including creating barriers to future access of a service • Systemic barriers that prevent victim survivors from separating their telco accounts, despite “clean slate” and “de-link” industry guidelines. • Lack of appropriate staff training to deal with family violence
k) Lee Economic Abuse Reference Group (EARG)	Deidentified	<p>Optus refused to correspond directly with the authorised lawyer acting on the client’s behalf.</p> <p>After four months, Optus stated the debt needed to be resolved directly with the debt collector</p>	<ul style="list-style-type: none"> • Inadequate hardship and debt collection practices for victim survivors • Lack of appropriate staff training to deal with family violence
l) K Financial Rights Legal	<p>Deidentified</p> <p>Contact FRLC policy and communications officer Sarah</p>	<p>Aged pensioner considering bankruptcy after \$28k debt to Optus. Optus provided the client 7 phone plans, totalling \$500 per month, after the client was scammed into multiple contracts.</p> <p>The client fell into hardship and requested the contracts reversed.</p>	<ul style="list-style-type: none"> • Mis-selling • Inadequate sales practices leading to financial hardship



Centre (FRLC)	<p>Wilson for further info</p> <p>(02) 8204 1388</p> <p>sarah.wilson@financialrights.org.au</p>	It appears unlikely Optus undertook a credit assessment before providing the contracts.	
m) Jennifer Financial Rights	<p>Deidentified</p> <p>Contact FRLC policy and communications officer Sarah Wilson for further info</p> <p>(02) 8204 1388</p> <p>sarah.wilson@financialrights.org.au</p>	Single parent experiencing homelessness, family violence and financial hardship. Attempted to negotiate a payment plan for arrears, however was refused by Optus.	<ul style="list-style-type: none"> • Inadequate IDR processes • Lack of clear and consistent practices in relation to compensation decisions
n) M Financial Rights	<p>Deidentified</p> <p>Contact FRLC policy and communications officer Sarah Wilson for further info</p> <p>(02) 8204 1388</p> <p>sarah.wilson@financialrights.org.au</p>	Client was informed that the handset she had purchased came with a complementary smartwatch. After receiving fees, the client attempted to resolve the matter with Optus on multiple occasions, before the debt was assigned to debt collectors who 'bombarded' the client via SMS.	<ul style="list-style-type: none"> • Mis-selling • Inadequate sales practices leading to financial hardship
o) Josie Financial Rights	<p>Deidentified</p> <p>Contact FRLC policy and communications officer Sarah</p>	Client of multiple vulnerabilities lost her mobile during an ambulance transportation after family violence injuries. The client and her support worker contacted Optus repeatedly to request a number transfer, and was refused. The client continued receiving charges for the device and plan.	<ul style="list-style-type: none"> • A lack of understanding of the impacts of family violence and financial hardship including creating barriers to future access of a service



	Wilson for further info (02) 8204 1388 sarah.wilson@financialrights.org.au		<ul style="list-style-type: none"> • Lack of appropriate staff training to deal with family violence • Inadequate IDR processes • Systemic barriers that prevent victim survivors from separating their telco accounts, despite “clean slate” and “de-link” industry guidelines.
p) Lisa Financial Rights	Deidentified Contact FRLC policy and communications officer Sarah Wilson for further info (02) 8204 1388 sarah.wilson@financialrights.org.au	Aboriginal single mum of 5 under 18 y.o Client’s ex-partner opened 4 contracts including handsets & accessories in the client’s name. Initially Optus temporarily reduced all payment plans, however didn’t reverse the contracts she was receiving no benefit from. Optus initially only used their hardship policy rather than their family violence policy.	<ul style="list-style-type: none"> • Mis-selling and inadequate sales practices and checks leading to economic abuse • Inadequate IDR processes • A lack of understanding of the impacts of family violence and financial hardship including creating barriers to future access of a service • Systemic barriers that prevent victim survivors from separating their telco accounts, despite “clean slate” and “de-link” industry guidelines.
q) Kara Economic Abuse Reference Group (EARG)	Deidentified	The perpetrator coerced the client to provide personal pin information, and obtained a post-paid account in her name, which was used to order more handsets and upgrades on her account. Optus did not provide a response to the request for a waiver and reversal of contract.	<ul style="list-style-type: none"> • Inadequate sales practices and checks leading to economic abuse • Mis-selling • A lack of understanding of the impacts of family violence and financial hardship including creating barriers to future access of a service • Lack of clear and consistent practices in relation to compensation decisions • Inadequate IDR processes



3. Relevant references

The following legislation, guides and industry codes are relevant to our complaint:

- a. the *Telecommunications (Consumer Complaints Handling) Industry Standard 2018 Cth*
- b. ACCC publication: Consumer vulnerability: A business guide to the Australian Consumer Law (November 2021)
- c. *Competition and Consumer Act 2010 Cth* - Australian Consumer Law (the ACL) including Chapter 3, Part 3-1, & Part 3-2
- d. the Telecommunications Consumer Protections Code ("TCP Code"),
- e. the G660:2023 Assisting Consumers Affected by Domestic and Family Violence Code (the "DFV Code")
- f. C566 Number Management – Use of Numbers by Customers Industry Code;
- g. C525 Handling of Life Threatening and Unwelcome Communications Industry Code;

Specifically: _____

a. *Telecommunications (Consumer Complaints Handling) Industry Standard 2018 Cth*

- i. **Minimum requirements of a complaint process:** the industry standard requires service providers to set out each step including the response; proposed resolution and implementation of a resolution with the consumer (Part 3, Section 8);
- ii. **Resolution:** The standard requires service providers to tailor remedies offered to consumers that address the main cause of the complaint and individual circumstances of the consumer (Section 13, Part 13). Under this section, the standard also requires providers to investigate a complaint to the extent that is commensurate with the seriousness of the complaint, where it is not possible to resolve a complaint to the satisfaction of the consumer at first contact or without an investigation.

b. *Competition and Consumer Act 2010 Cth* - Australian Consumer Law (the ACL)

- i. **False or misleading representations:** the ACL defines false and misleading representations which prohibits making a false or misleading representation with respect to the price of goods or services, or about the existence, exclusion, or effect of any right or remedy (Section 29, 1 (i) and (m)).
- ii. **Misleading or deceptive conduct:** the ACL outlines a person must not, in trade or commerce, engage in conduct that is misleading or deceptive or is likely to mislead or deceive (Section 18).
 - In some cases where consumers directly requested specific remedies, Optus was reported to mislead the consumer that they were required to join a call with their perpetrator in order to action the remedy;



- Optus was reported to have refused consumers the remedy to action requested changes as permitted under industry codes including 'clean slate' or de-linking of accounts (cases i; j; o; q)
- Optus' actions amount to false and misleading representations of the existence and or exclusion of these consumers' right or remedy.
- Optus was reported to have misled consumers that a watch would be free with the purchase of a handset device, amounting to a misleading representation with respect to the price of goods (cases h; m)

iii. **Due care and skill of services:** Optus has a requirement to guarantee that their services to consumers are rendered with due care and skill (Section 60 of the ACL). Additionally, industry codes and guidelines (including those listed above) further outline the requirements of service providers in specialist understanding and expertise in assisting consumers affected by family violence (the DFV Code); and in appropriate service and understanding of vulnerable consumers (ACCC Consumer Vulnerability).

- In circumstances where the consumer has requested direct assistance in hardship or family violence circumstances with Optus, the service provider has protracted resolution (cases a; f); refused assistance (cases c; i); or required the consumer to repeatedly disclose their story in circumstances of family violence (case a)

c. **the Telecommunications Consumer Protections Code ("TCP Code")**

i. **Disadvantaged & Vulnerable consumers:** The TCP Code outlines requirements for Suppliers to ensure appropriate interaction with disadvantaged or vulnerable consumers (clause 3.4.2)

- In each of the complaints submitted, clients identified inappropriate interactions and responses from Optus sales representatives and staff.
- In cases where clients were affected by family violence, staff didn't provide appropriate assistance; (including cases a; b; c) or provide appropriate communication to disadvantaged or vulnerable consumers (including cases m; o; p)

ii. **Mis-selling:** the TCP Code outlines proscribed content including use of the term 'free' (clause 4.1.2) and remedies for inaccurate information in sales and advertising (clause 4.4.1); provide services responsibly (clause 6.1) and assess capacity to pay (clause 6.1.1).

- In cases of family violence, clients reported being coerced into contracts for multiple devices of which they received no benefit. Clients state that these were provided by Optus without being provided additional questions or financial assessments of their suitability to these plans (including cases f; g; i).
- In multiple cases, consumers were provided numerous devices and contracts, including contracts the consumers received no benefit from (cases e; f; g), in some cases up to 5 devices (case c).



- These contracts were not suitable, or facilitated appropriately by Optus, and caused or exacerbated consumers' financial hardship, and further enabled economic abuse by their perpetrators.
- In cases provided outlining mis-selling, consumers stated they were led to believe a watch device came free with a new phone plan (cases h; m) and were not provided appropriate remedies including the right to terminate the contract.
- Optus' lack of appropriate financial assessment and responsible sales practices has enabled consumers to be scammed into multiple and unsuitable contracts, with consumers reporting that Optus did not ask them further questions during the sale process (case d).

iii. **Customer service:** The Code requires suppliers to deal with enquiries in a timely and effective manner (section 4.7.1).

- In multiple cases, clients experienced slow response times (case a; f; i; k), protracted resolutions of up to 12 months (case a), and merry-go-round practices during calls requesting access to financial hardship support, or in cases of disclosing family violence (cases d; g; p).

iv. **Financial hardship; assessment, arrangements & application:** The code requires suppliers to ensure staff are appropriately trained in applying hardship policies (clause 7.3); providing fair and timely assessment (7.4); ensuring suitable financial arrangements (clause 7.22 b) and appropriate and flexible options in cases of family violence (clause 7.6.1). The following themes from the cases demonstrate a lack of effective training by Optus of its staff:

- In multiple cases, Optus did not provide a fair assessment or suitable arrangements of hardship, resulting in customers being entered into unaffordable payment plans (cases c; d; e).
- In some cases where customers disclosed family violence, Optus threatened to restrict their accounts (case i), refused hardship arrangements (cases d; i; j; m) and disconnected clients (case a, d, e).
- Optus put in place inappropriate hardship arrangements in some cases where clients requested cancellations; de-linking of accounts and waivers for debts incurred due to family violence (cases a; b; c).
- by staff misinforming them they were required to be connected to their perpetrator in order to action their request.
- These cases demonstrate unsuitable practices and financial arrangements for consumers affected by family violence, and in some instances caused additional risk to their safety.

d. **Industry Guideline G660:2023 Assisting Consumers Affected by Domestic and Family Violence ("DFV Code")**



- i. **Connection, identifying safeguards and options:** The DFV Code outlines suppliers should safeguard the affected person's connection (clause 8.1.1); minimise them repeating their story (clause 4.3.1) and identify appropriate mechanisms to ensure consumers security, safety and privacy (clause 8.2.1).
- In many cases, affected consumers were disconnected (cases a; d, e) after disclosing family violence to Optus. In one case a client said they were disconnected on four separate occasions (case d).
 - In one case, Optus transferred a call with the affected person to the perpetrator, breaching the consumer's safety and privacy (case d).
 - Optus caused additional and onerous stress on customers experiencing family violence by requiring them to repeat their story of family violence (case a), demonstrating inappropriate and poor practices by Optus.
- ii. **Options for affected customers:** The DFV Code outlines options for affected customers including 'clean slate'; new services and additional security measures including removing perpetrators' access (clauses 8.2.2; 8.3).
- Consumers have reported Optus has stated it is required to join a call with their perpetrator in order to action changes to their account.
 - Optus has refused to action requested changes or options made by affected consumers, that would have further protected their safety & privacy; despite these consumers and their advocates explicitly stating the option themselves (cases i; j; o; q).
 - Due to the failure of Optus to provide adequate changes to affected customers accounts, the customers fell into further financial hardship, and Optus then assigned the debt to debt collectors, additionally breaching debt collection guidelines (cases b; c; f; l; i; k).
- iii. **Sales processes in DFV:** Service providers are expected to be trained and apply adequate practices that minimise any risk of harm to affected consumers (clause 9.2), including longer-term harms such as being made contractually responsible for products or services (clause 9.2.1 c); and decline or pause sales where DFV is identified or suspected (clause 9.2.2).
- Affected consumers have reported being signed up for multiple contracts of which they received no benefit from (including cases a; b; c; d).
 - Concerningly, almost all cases where family violence was disclosed, the consumer was required to continue paying charges for their perpetrator's device, in order to retain connection for their own service (including cases a; g). Not only does this demonstrate breaches to sales processes; it identifies potential breaches in providing adequate assistance and information to affected customers; and furthered their financial hardship.
- iv. **Debt management:** Under the DFV Code, service providers are expected to consider appropriate responses to debt and hardship in addition to the TCP Code, including waiving debt; or waiving the requirement to return devices the customer no longer has possession of (clause 10.3.1).



- Affected consumers reported requesting waivers of debt incurred due to family violence, for accounts they have received no benefit from. Optus refused these requests, without providing further response (cases a; g; l) .

v. **Debt collection & disputing default:** The service provider should consider default listings incurred through no fault of the customer to be removed (clause 10.4.1); and where debt has been sold, to recall the debt from the debt buyer (clause 10.4.3).

- In case f, after protracted attempts to receive hardship assistance with no resolution, the affected consumer's impacted credit score prevented her from obtaining a phone service for her own use; further exacerbating existing risks to harm and her safety by Optus.
- Optus has assigned or sold the debt in cases where Optus has been provided disclosure by affected consumers of family violence (including cases b; g; k; n).

