

Investigation Report:

File No.	ACMA2024/1128
Carriage Service Provider	Telecom West Pty Ltd
ACN	161 330 150
Relevant Legislation	<i>Telecommunications Act 1997</i> <i>Telecommunications (Financial Hardship) Industry Standard 2024</i>

Findings

The Australian Communications and Media Authority (**ACMA**) finds that Telecom West Pty Ltd (**Telecom West**) contravened subsection 128(1) of the *Telecommunications Act 1997* (**the Act**) by failing to comply with paragraph 7(1)(a) of the *Telecommunications (Financial Hardship) Industry Standard 2024* (**the Financial Hardship Standard**) on 21 May 2024.

Background

1. On 31 August 2023, the Minister for Communications made the *Telecommunications (Financial Hardship Industry Standard) Direction 2023* which directed the ACMA to determine a standard under subsection 125AA(1) of the Act, dealing with:
 - (a) information relating to financial hardship matters that was to be provided by carriage service providers (**CSPs**) to customers and made available to customers, and potential customers;
 - (b) support to be provided by CSPs to customers who are, or may be, experiencing financial hardship.
2. On 1 February 2024, the ACMA made the Financial Hardship Standard under subsection 125AA(1) of the Act. The Standard commenced on 29 March 2024. The new rules in the Standard replace and enhance previous financial hardship measures set out in the Telecommunications Consumer Protections Code C628:2019 (**the TCP Code**).
3. On 21 May 2024, the ACMA commenced an investigation into Telecom West's compliance with paragraph 7(1)(a) of the Financial Hardship Standard. The ACMA audited 48 telcos including Telecom West, which disclosed evidence that led the ACMA to believe that Telecom West may not have complied with requirements in the Financial Hardship Standard. Specifically, that Telecom West failed to establish and publish a payment assistance policy and a summary of that policy on their website that meets the minimum requirements of Part 2 of the Financial Hardship Standard.
4. On 28 May 2024, the ACMA provided its preliminary findings report to Telecom West and invited it to respond. Telecom West did not contest the ACMA's

preliminary findings and confirmed by email dated 19 June 2024 that it had updated its Policy to address the issues raised in the preliminary findings report.

Findings and Reasons

Section 128 of the Act

5. Section 128 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.
6. The Financial Hardship Standard is an industry standard determined under subsection 125AA(1) of the Act and registered under Part 6 of the Act.
7. Paragraph 4(a) of the Financial Hardship Standard provides that for the purpose of subsection 125AA(1) of the Act, this industry standard applies to participants in the telecommunications industry, being CSPs that supply telecommunications products to residential, small business and not-for-profit customers.
8. Telecom West is a CSP that supplies internet and mobile services to the public. As a participant in the section of the telecommunications industry to which the Financial Hardship Standard applies, Telecom West is required to comply with the Financial Hardship Standard.

Paragraph 7(1)(a) of the Financial Hardship Standard

9. Paragraph 7(1)(a) of the Financial Hardship Standard provides that CSPs that offer to supply telecommunications products to consumers under a consumer contract must establish a payment assistance policy (**Policy**) that meets the minimum requirements in Part 2 of the Standard. These minimum requirements relate to the content to be included in the Policy and the accessibility and promotion of the Policy.
10. On 21 May 2024, the ACMA accessed Telecom West’s Policy through Telecom West’s website at <https://www.telecomwest.com.au>. On 21 May 2024, the ACMA reviewed Telecom West’s Policy and formed the view that Telecom West contravened paragraph 7(1)(a) of the Financial Hardship Standard for the reasons set out below. A copy of Telecom West’s Policy that the ACMA assessed is at **Attachment A**.

Breach findings

Provision of <i>Financial Hardship Standard</i>	Requirement	ACMA findings and reasons
8(1)(d)	A Policy must be accurate and up to date	Telecom West’s Policy is not accurate and up to date as it does not meet a range of content requirements as outlined in the rows below. Consequently, Telecom West’s Policy has not been updated to meet the minimum requirements under the Financial Hardship Standard.

8(1)(g)(i)	<p>The Policy must be made clearly available to the public on the provider’s website and on an app if the provider uses an app:</p> <p>(i) via a direct hyperlink from the home page of the website</p>	<p>Telecom West’s Policy was found via a hyperlink titled ‘Policies’ on its home page, available at: www.telecomwest.com.au, and then was located on Telecom West’s ‘Policies’ webpage (see Attachment B).</p> <p>Consequently, the Policy was not clearly available via a direct hyperlink from Telecom West’s home page as required.</p> <p>Therefore, based on its review of Telecom West’s Policy on 21 May 2024, the ACMA finds that Telecom West’s Policy does not meet the minimum accessibility requirement under paragraph 8(1)(g) of the Financial Hardship Standard on 21 May 2024.</p>
8(1)(g)(ii)	<p>The Policy must be made clearly available to the public on the provider’s website and on an app if the provider uses an app:</p> <p>(ii) in a concise summary form on the same web page or location that the information about how to make an application and payment assistance policy are kept.</p>	<p>Telecom West does not have a Policy Summary available on its website.</p> <p>See Attachment C for a screenshot of Telecom West’s ‘Policies’ webpage evidencing Telecom West does not have a Policy Summary.</p> <p>Therefore, based on its review of Telecom West’s website on 21 May 2024, the ACMA finds that Telecom West’s Policy Summary did not meet the minimum content requirement under paragraph 13(a), and thus does not meet the minimum requirements under paragraph 8(1)(g) of the Financial Hardship Standard.</p>
9(c)	<p>A Policy must include a statement of intention, which expressly recognises:</p> <p>(i) that the goal of the PA Policy is to prioritise keeping customers experiencing financial hardship connected; and</p> <p>(ii) that disconnection will only be used by the provider</p>	<p>Telecom West’s Policy states that ‘We are committed to helping customers facing financial hardship maintain telecommunications access’.</p> <p>However, Telecom West’s Policy does not state that disconnection will be used as a measure of last resort.</p> <p>A copy of Telecom West’s Policy is available at Attachment A.</p> <p>Therefore, based on its review of Telecom West’s Policy on 21 May 2024, the ACMA finds that Telecom West’s Policy does not meet the minimum content requirement under</p>

	as a measure of last resort	paragraph 9(c) of the Financial Hardship Standard.
9(d)	The Policy must state that customers have a right to apply for financial hardship assistance	<p>Telecom West's Policy encourages customers to contact them if they are experiencing any difficulties paying for their services.</p> <p>However, Telecom West's Policy does not state that customers have a right to apply for financial hardship assistance.</p> <p>Therefore, based on its review of Telecom West's Policy on 21 May 2024, the ACMA finds that Telecom West's Policy does not meet the minimum content requirement under paragraph 9(d) of the Financial Hardship Standard.</p>
9(g)	The Policy must set out information on support services for customers in financial hardship, including how the customer can contact financial counselling services, and the Telecommunications Industry Ombudsman (the TIO)	<p>Telecom West's Policy does not set out information on how customers can contact the TIO. (This information is contained in Telecom's West's Complaint Handling Policy).</p> <p>Therefore, based on its review of Telecom West's Policy on 21 May 2024, the ACMA finds that Telecom West's Policy does not meet the minimum content requirement under paragraph 9(g) of the Financial Hardship Standard.</p>
10(e)	<p>The Policy must ensure that the processes referred to in paragraphs 9(a) to (f) are accessible to consumers with disabilities, from cultural or linguistically diverse backgrounds or with other special needs.</p> <p><i>The Explanatory Statement to the Financial Hardship Standard, (Section 10 - Minimum content requirements – applications), states, for example, offering the payment assistance policy and applications form (if applicable) in common community languages such</i></p>	<p>Telecom West's Policy does not contain any information to assist consumers with disabilities or from cultural or linguistically diverse backgrounds access the Policy. For example:</p> <ul style="list-style-type: none"> • no common community language translations are available • there is no information about any interpreter services • no information or weblinks to the National Relay Service are included. <p>Therefore, based on its review of Telecom West's Policy on 21 May 2024, the ACMA finds that Telecom West's Policy does not meet the minimum content requirement under paragraph 10(e) of the Financial Hardship Standard.</p>

	<i>as Arabic, Greek, Vietnamese and Mandarin, including information about translation services that may be available, or including the number of an interpreter service.</i>	
11(d)	The Policy must state that customers seeking short term assistance or who are a victim survivor of domestic or family violence are not required to provide evidence to support their application	Telecom West's Policy does not state that customers seeking short term assistance and victims of survivors of domestic or family violence are not required to provide evidence to support their application for financial assistance. Therefore, based on its review of Telecom West's Policy on 21 May 2024, the ACMA finds that Telecom West's Policy does not meet the minimum content requirement under paragraph 11(d) of the Financial Hardship Standard.
12(b)	The Policy must set out the process by which the customer can make a complaint to the TIO for external dispute resolution	Telecom West's Policy does not include information about how customers can make a complaint to the TIO. (The ACMA notes this information is contained in Telecom's West's Complaint Handling Policy). Therefore, based on its review of Telecom West's Policy on 21 May 2024, the ACMA finds that Telecom West's Policy did not meet the minimum content requirement under paragraph 12(b) of the Financial Hardship Standard.
12(c)	The Policy must state that making a complaint <ul style="list-style-type: none"> • to the provider about a decision in relation to their application or seeking review of that decision, • or to the TIO does not prevent the customer from agreeing to an arrangement for financial hardship assistance	Telecom West's Policy does not include the statement required under 12(c). Therefore, based on its review of Telecom West's Policy on 21 May 2024, the ACMA finds that Telecom West's Policy did not meet the minimum content requirement under paragraph 12(c) of the Financial Hardship Standard.

Conclusion

Based on its review of Telecom West's Policy on 21 May 2024, for the reasons set out above, the ACMA finds that Telecom West has not complied with paragraph 7(1)(a) of the Financial Hardship Standard, as it has not established a payment assistance policy that complies with the minimum requirements in Part 2 of the Financial Hardship Standard. Consequently, the ACMA finds that Telecom West has contravened subsection 128(1) of the Act as it has not complied with paragraph 7(1)(a) of the Financial Hardship Standard.

ATTACHMENTS

Attachment A: Telecom West's Policy downloaded on 21 May 2024

Attachment B: Telecom West's website home page accessed on 21 May 2024

Attachment C: Telecom West's Policy website accessed on 21 May 2024