

Investigation Report

File No.	ACMA2023/427
Entities	Kangaroo Telecom Pty Ltd (trading as Telsim)
Scope of investigation	Compliance with clauses 4.5.1(a) and 4.6.1(a) of the Telecommunications Consumer Protections Code C628:2019

Summary of findings

The Australian Communications and Media Authority (**ACMA**) finds that Kangaroo Telecom Pty Ltd (ACN 628 098 966), trading as Telsim (**Telsim**), has contravened:

- (a) clause 4.5.1(a) of the Telecommunications Consumer Protections Code C628:2019 (**TCP Code**) for the period 1 January 2023 to 14 April 2024, because Telsim did not ensure that its sales representatives were appropriately trained to promote and sell in a fair, transparent, responsible and accurate manner in accordance with clause 4.5.1(c) of the TCP Code; and
- (b) clause 4.6.1(a) of the TCP Code because Telsim did not ensure that its customer contract clearly stated that Telsim is responsible for the service to the consumer and is not affiliated or related to the principal carrier.

Background

1. The TCP Code is registered under Part 6 of the *Telecommunications Act 1997* (**the Act**) and sets out rules that apply to all carriage service providers (**CSPs**) that supply telecommunications products to residential and small business consumers.
2. Telsim sells home internet services and prepaid mobile services to residential and small business consumers. It is therefore a CSP within the meaning of section 87 of the Act and a supplier for the purposes of the TCP Code.
3. This report presents the findings of an investigation conducted by the ACMA into whether Telsim contravened clauses 4.5.1(a) and 4.6.1(a) of the TCP Code.
4. The investigation follows the Telecommunications Industry Ombudsman (the **TIO**) notifying the ACMA on 30 April 2024 of concerns it had with Telsim's selling practices. The TIO was particularly concerned that Telsim may be misrepresenting itself as one of the larger mobile network providers to new arrivals at Australian international airports. It also follows the ACMA's review of 10 complaints about Telsim that the TIO provided to the ACMA. The investigation was initially conducted for the period 12 February 2022 to 14 April 2024.
5. On 25 July 2024, the ACMA gave Telsim a notice under subsection 521(2) of the Act (**the Notice**), requiring the provision of information and documents, to assist the ACMA in assessing whether Telsim had complied with clauses 4.5.1 and 4.6.1 of the TCP Code. Telsim responded to the notice on 9 August 2024.
6. On 15 October 2024, the ACMA sent its preliminary findings report to Telsim and invited it to respond. In its submission to the ACMA on 29 October 2024, Telsim

advised that it did not have any direct outlets or dedicated sales staff until January 2023. As such, the ACMA has focused its investigation on, and made final findings for the period from 1 January 2023 to 14 April 2024.

7. In the course of the investigation, the ACMA examined:
 - (a) Information provided by the TIO in its systemic referral to the ACMA on 30 April 2024.
 - (b) Information provided by Telsim on 9 August 2024 in response to the Notice.
 - (c) Information provided by Telsim on 9 September 2024 in response to an ACMA request for clarifying information.
 - (d) Copies of Telsim's Standard Forms of Agreements for its home internet services and prepaid mobile services, accessed through Telsim's website at <https://www.telsim.com.au> on 14 October 2024 (see Attachments A and B).
 - (e) Telsim's 29 October 2024 submission in response to the ACMA's preliminary findings.

Findings and reasons

8. Having assessed the evidence and information before it, the ACMA is of the view that Telsim has contravened clauses 4.5.1(a) and 4.6.1(a) of the TCP Code. Details of the contraventions are set out below.

Clause 4.5.1(a) Responsible approach to selling

9. Clause 4.5.1 of the TCP Code requires suppliers to ensure their sales representatives:
 - (a) promote and sell Telecommunications Products¹ in a fair, transparent, responsible and accurate manner to assist consumers in making informed purchasing decisions; and
 - (b) clearly explain the key terms, conditions and costs of the Telecommunications Products consumers are purchasing.
10. To enable this outcome, suppliers must take particular actions, including ensuring that the supplier's sales representatives are appropriately trained to promote and sell in a fair, transparent, responsible and accurate manner (clause 4.5.1(c)).
11. The ACMA considers that to comply with clause 4.5.1, suppliers need to ensure that all their sales representatives, prior to selling, offering to sell, or otherwise promoting the supplier's telecommunications products, have successfully completed training in how to sell telecommunications products in a fair, transparent, responsible and accurate manner to consumers.
12. In the Notice, Telsim was required to provide a detailed description and supporting documentation of any training delivered to the sales representatives involved in the sales that were the subject of some of the complaints received by the TIO.
13. In its response to the Notice, Telsim provided copies of the training materials used for training its sales representatives. The training materials are contained in a

¹ Telecommunications Product means Telecommunications Goods and/or a Telecommunications Service (see section 2 of the TCP Code).

document titled *Telsim Sales Representative Training*, which was first finalised on 12 February 2022. The training materials have been updated six times since February 2022, with the last update completed on 15 April 2024 (version V1.7).

14. Telsim's training materials included information and instructions on how to identify and handle vulnerable customers, but they did not include information on how to sell Telecommunications Products in a fair, transparent, responsible and accurate manner until the materials were revised on 15 April 2024.
15. Based on the ACMA's review of the information provided by Telsim, especially the content of the training materials provided in response to the Notice, the ACMA is not satisfied that between 1 January 2023 and 14 April 2024, when the training materials were revised to include training in responsible selling, that the training provided to Telsim sales representatives met the objects of clause 4.5.1(c) of the TCP Code.
16. For this reason, the ACMA is of the view that for the period January 2023 to 15 April 2024 Telsim did not meet the requirement in clause 4.5.1(a) of the TCP Code as it had not appropriately trained its sales representatives to promote and sell in a fair, transparent, responsible and accurate manner, as required by clause 4.5.1(c) of the TCP Code.

Clause 4.6.1(a) Customer Contracts

17. Clause 4.6.1 of the TCP Code requires a supplier to provide consumers with a Customer Contract that includes details of the entity providing the Telecommunications Service and of any associated Telecommunications Goods that are provided by the supplier, or are required to be provided by the customer, to enable use of the Telecommunications Service and the details of inclusions in the Telecommunications Service.
18. To enable this outcome, a supplier must take particular actions, including, if a supplier does not own the network(s) over which they are supplying the telecommunications service, by providing the consumer with the name of the principal carrier(s) whose network(s) is/are used to provide the telecommunications services and ensuring it is clear to the consumer that the supplier is responsible for the service to the consumer and is not affiliated or related to the principal carrier(s) unless it in fact is (clause 4.6.1(a)).
19. Telsim uses the network operated by NBN Co Limited to supply its home internet services and the network operated by Telstra Corporation Limited to supply its prepaid mobile services.
20. Section 479 of the Act allows a CSP to use a standard form of agreement as a contract with customers for carriage services. Suppliers often use Standard Forms of Agreements where the terms and conditions are the same for every customer.
21. On 14 October 2024, the ACMA accessed Telsim's two Standard Forms of Agreements for its NBN and mobile services through its website at <https://www.telsim.com.au> (see Attachment A and B)
22. Neither of the two Standard Forms of Agreements assessed included advice that Telsim is not affiliated with or related to the principal carriers, in this case, Telstra and NBN Co Limited.

23. In its submission to the ACMA, Telsim did not dispute that its two Standard Forms of Agreements did not include advice that it is not affiliated or related to the principal carriers, as required.
24. Therefore, the ACMA finds that Telsim contravened clause 4.6.1(a) of the TCP Code.