

EXPLANATORY STATEMENT

Introduction

The *Telecommunications Act 1997* (Cth) encourages self regulatory processes. Communications Alliance has been at the forefront of these processes and has worked closely with suppliers, regulators, the Telecommunications Industry Ombudsman (TIO), consumer groups and small business groups to develop industry codes of practice dealing with issues which affect consumers. The focus of this work has been to ensure that the residential and small business segments have adequate consumer protections. This focus is reflected in the *Telecommunications Act*, the operations of the TIO and the work of the Communications Alliance.

In developing the consolidated Telecommunications Consumer Protections Code (C628:2007) (the Code), it became clear that this focus had not been consistently reflected in the six separate codes that have been incorporated into this Code. This Code addresses this inconsistency and clarifies that it applies to residential and small business customers.

The development of the Code is a major strategic initiative for Communications Alliance and can be seen as a demonstrable outcome of a mature industry in the 10th anniversary of the *Telecommunications Act 1997*.

The Code will, when registered, replace the following registered ACIF Codes:

1. Customer Information on Prices, Terms and Conditions Industry Code [ACIF C521:2004],
2. Credit Management Industry Code [ACIF C541:2006],
3. Billing Industry Code [ACIF C542:2003],
4. Customer Transfer Industry Code [ACIF C546:2007],
5. Complaint Handling Industry Code [ACIF C547:2004], and
6. Consumer Contracts Industry Code [ACIF C620:2005].

Accompanying the Code will be the Telecommunications Consumer Protections Guideline (G631:2007). The Guideline is designed to:

- aid in interpreting the Code Rules; and
- provide examples of how a Supplier may choose to comply with the Rules.

Background

The subject of a 'single' consumer code has been a matter of public discussion for a number of years. Among other developments, the following events indicated the growing interest in the idea of a single consumer code:

- the ACIF Strategic Plan for 2004-2007 included the exploration of the concept of a united, single consumer code;
- the development of a first draft model by an ACIF member (AAPT) in 2004;
- the endorsement of the concept of a single consumer code in the then Australian Communications Authority (ACA) Report, *Consumer Driven Communications*, in November 2005; and
- the reference by the Minister for Communications, Information Technology and the Arts to the concept of a single consumer code as a current consumer issue at the Consumers' Telecommunications Network (CTN) Conference in March 2005.

In April 2005, the Communications Alliance Consumer Issues Reference Panel (CIRP) established a subcommittee to explore the issues involved in moving to a single consumer code, and to make recommendations.

The CIRP developed an Issues Paper that was distributed to ACIF members, members of the Consumer and Disability Councils, and other consumer groups, seeking responses to the suggested options. In addition, symposia were held in Sydney and Melbourne, to further explore the development of a single consumer code in July 2005.

The responses made both in submissions received and in discussions at the symposia suggested there was a range of views held by the various stakeholders, ranging from arguments that nothing should be done to recommendations for a complete redrafting of the existing codes.

One common theme was that, before the options were further explored, there should be a cost/benefit analysis that looked at the costs, benefits and risks in moving forward to develop a single consumer code, regardless of the option finally selected.

In August 2005 and after ACIF CEO and Board approval, 'OVUM' was engaged to undertake a cost/benefit and risk analysis. In undertaking the analysis, various stakeholders were interviewed and a final report was presented to the ACIF Board in October 2005.

The report's recommendations were accepted and approved by the ACIF CEO and Board in December 2005. The recommendations were that ACIF and its members should proceed to introduce a single consumer code known as the Telecommunications Consumer Protection Code.

In November 2006, a Steering Committee comprising consumer and supplier representatives was established to guide the transfer of the existing obligations in the six codes to a new Code and Guideline. Baker & McKenzie was appointed to undertake the legal drafting. This Code is the outcome of that work.

Current regulatory arrangements

Section 112 of the *Telecommunications Act* outlines the intention of Parliament that the telecommunications industry develop industry codes relating to telecommunications activities. Section 113 lists examples of the matters that may be dealt with by the development of an industry code. The list includes the areas covered by the six existing codes.

The *Telecommunications (Consumer Protection and Service Standards) Act 1999* (Cth) requires carriers and carriage service providers to enter into and comply with the TIO Scheme. This scheme is an avenue of last resort for the handling of end user complaints about carriage services. Subject to the consent of the TIO, this Code confers powers on the TIO to handle complaints about matters arising under the Code.

Why current regulatory arrangements are inadequate

The Code has been developed in response to requests by both consumer groups and industry. The new Code is designed to retain the obligations of the six consumer codes it replaces, consolidating them in one document to improve consistency and make it easier for consumers and suppliers to understand their rights and obligations.

How the Code builds on and enhances the current regulatory arrangements

The Communications Alliance consumer codes were developed in cooperation with industry representatives and consumers and cover the life cycle of the relationship between service providers and their customers.

This project has translated the obligations in the six existing codes into a new single code. A separate chapter in the new Code has been devoted to each of the subjects of customer information on prices, terms and conditions, contracts, billing, credit management, customer transfer and complaint handling.

The six codes on which this Code is based were developed by Communications Alliance Working Committees, which operate under a consensus decision making model, and comprise representatives from industry, relevant regulatory bodies and consumers. Draft codes were released for public comment before finally being approved by the Working Committee and the Communications Alliance Board. The codes were then sent to the Australian Communications and Media Authority (ACMA) for registration. As registered codes, ACMA can direct service providers to comply with their terms.

This Code is designed to preserve the consensus achieved in the existing codes. New or modified obligations were considered to be outside the scope of this project. However, where identified, these have been noted on an 'Issues List' for future consideration.

What the Code will accomplish

The Code will:

- make it easier for consumers and their advocates and representatives to know their rights;
- ensure drafting consistency and deliver a consistent style and language;
- provide a consolidated single Code and Guideline document, using consistent definitions and terminology;
- separate out rules from procedures; and
- allow suppliers to use their own systems and procedures to comply with the obligations in the Code, rather than prescribing methods of compliance.

The Code will communicate consumer protections and supplier obligations more effectively, and in an integrated manner. This will result in fewer complaints in the long term.

Anticipated cost to industry

Industry participants will incur initial costs in relation to compliance with this Code. Ongoing costs, such as in relation to the education and training of staff, development or enhancement of policies and procedures, development or modification of internal systems, employment of additional staff for key compliance areas, and compliance monitoring programs should remain the same and not be significantly affected by the introduction of the Code. There is potential scope for reduced costs. In particular, less prescription about the methods or processes a supplier may use to comply with a Code rule may reduce compliance costs.

The single Code could reduce the costs that industry incurs in handling complaints by:

- enabling industry participants and stakeholders to better understand their rights and obligations, so that the circumstances in which complaints arise may be reduced; and
- improving understanding of the Code by industry participants, resulting in higher levels of efficiency, fewer complaints and more efficient complaint handling.

New suppliers will need to ensure that compliance with the Code is built into their processes and systems.

Deirdre O'Connor
Chair

Telecommunications Consumer Protections Code Steering Committee

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