

8 April 2025

Mr Luke Coleman
Chief Executive Officer
Communications Alliance Ltd
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Milsons Point NSW 1565

Via email: l.coleman@commsalliance.com.au

Dear Mr Coleman

Telecommunications Consumer Protections (TCP) Code Review – consultation draft Code

Thank you for providing the ACMA with copies of submissions made to the public consultation on the draft TCP Code. ACMA staff have now had the opportunity to review submissions.

We strongly recommend Communications Alliance (CA) give careful consideration, in particular, to the feedback around the following matters (detailed in Attachment A):

- Responsible selling – sales incentives (clauses 6.1.4 to 6.1.7)
- Responsible selling – remedies for mis-selling (clauses 6.1.11 to 6.1.17)
- Mobile coverage (chapter 6)
- Credit assessments (chapter 6)
- Payment methods (chapter 8)
- Disconnection (chapter 9)
- CSP-initiated contract changes (chapter 7)

In considering registration of an updated Code, I am confident that the Authority will want to understand how CA considers any Code as submitted would provide appropriate community safeguards. I encourage CA to share its views on this with any Code submitted for registration.

The ACMA contact officer is Ms Tanya Farrell (A/g Executive Manager, Telecommunications Safeguards and Numbers Branch). Ms Farrell can be contacted on (02) 6219 5194 or at tanya.farrell@acma.gov.au.

Yours sincerely

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Key matters raised by government bodies and consumer advocates

Responsible selling – sales incentives (clauses 6.1.4 to 6.1.7)

Government and consumer advocate stakeholders have raised that the current drafting is unlikely to be effective in reducing mis-selling noting:

- clawbacks are ineffective deterrents as the sales representative may have left the company by the time the mis-selling is identified (clause 6.1.5(a)(i))
- too much discretion is afforded to providers under clauses 6.1.5(a)(ii) and (iii)
- there is no minimum standard for metrics (clause 6.1.5(c))
- transparency about sales incentive structures is needed to raise consumer awareness prior to entering into purchase discussions with CSP staff.

Responsible selling – remedies for mis-selling (clauses 6.1.11 to 6.1.17):

Government and consumer advocate stakeholders raised concerns that too much discretion is given to CSPs, contending:

- the draft Code relies on excessive use of guidance notes for remedies for mis-selling which weakens the protections (clause 6.1.11)
- consumers should not be required to accept a specific remedy or penalised for choosing one over another, and this right should be codified rather than left as a guidance note (clause 6.1.11)
- consumers should not need to prove vulnerability at the time of mis-sale (clause 6.1.15) as they may find it traumatic or impossible to prove that their vulnerability was present at the time of the mis-selling, and this should not preclude them from accessing remedies
- remedies for consumers in vulnerable circumstances should include consumers whose vulnerability stems from mis-sale
- the 10-working day timeframe is too long to provide a remedy for customers experiencing debt and hardship (clause 6.1.17) – government and consumer advocate stakeholders recommended 5 working days as a more appropriate timeframe.

Mobile coverage (chapter 6)

Government and consumer advocate stakeholders considered the pre-sale information about mobile services and coverage, and associated remedies, are insufficient to adequately protect consumers, noting:

- pre-sale information about mobile services and coverage (clause 6.1.10) is insufficient to adequately protect consumers – the provisions only apply to ‘assisted sales’, and only requires the staff member to ‘prompt the consumer to check’ coverage in critical locations that the service is intended to be used.
- stronger protections and remedies are needed where mobile coverage does not meet a consumer’s requirements (clause 6.1.13).
- Provisions in the code are unlikely to be effective because:
 - it does not specify what it means for the CSP’s coverage to “not meet the customer’s coverage requirements”
 - where there is a reference to CSP mobile coverage maps, it is unclear if the remedy at clause 6.1.13 (remedies for incorrect information on mobile network coverage) will apply, and therefore afford protections to consumers where the maps do not match
 - drafting does not address how a CSP must treat situations where a consumer cancels their mobile service but the service is linked to a contract that also includes a device.

Credit assessments (chapter 6)

While government stakeholders and consumer advocates were supportive of the expanded credit assessment obligations, they considered the drafting is insufficiently prescriptive to adequately protect consumers from being sold products they cannot afford noting:

- that while supportive of the lower threshold the minimum thresholds for both new and existing residential customers in clauses 6.2.1(a) and 6.2.5(a), the OAIC proposed the thresholds should be increased from \$150 to \$300 to align with recommendations in the *Review of Australia's Credit Reporting Framework – Final Report*
- credit assessments should not be limited to cases 'where a debt may be pursued by the CSP' (clauses 6.2.1(b), 6.2.3(b), 6.2.5(b) and 6.2.9(b)) – in these situations, the consumer remains at risk of financial over-commitment, disconnection, accruing of debt, and potentially a default being listed against their credit score
- requiring providers to merely 'consider' the consumers financial situation does not provide for appropriate safeguards compared with other sectors (clauses 6.2.2(a), 6.2.4(a), 6.2.6(a) and 6.2.10(a))
- discretion for CSPs to determine 'affordability indicators' is too broad (clause 6.2.2(a)(iii) and 6.2.6(a)(iii))
- credit assessment for existing residential customers (clauses 6.2.6) is concerning as it lists the matters CSPs must consider as alternative options rather than as separate mandatory criteria, as for new residential customers in clause 6.2.2(a).

We note industry's strong opposition to the reduced credit assessment thresholds. However, credit assessments are a key area of concern raised in the ACMA's [What consumers want](#) position paper. We are persuaded by arguments to align the threshold in clauses 6.2.1(a) and 6.2.5(a) with the Credit Reporting Framework.

We note industry suggested excluding internal collection activities from 'debts being pursued by the CSP'. We encourage CA to carefully consider stakeholder concerns that credit assessments should not be limited to cases 'where a debt may be pursued by the CSP' – including internal collection activities (clauses 6.2.1(b), 6.2.3(b), 6.2.5(b) and 6.2.9(b)). Further, we strongly encourage the credit assessment for existing residential customers (clauses 6.2.6) to be revised to require separate mandatory criteria and align with that for new residential customers in clause 6.2.2(a).

We are very concerned with the position taken by some CSPs that credit protections in the Code should be 'light touch' as existing consumer protections such as the *Telecommunications (Financial Hardship) Industry Standard 2024* (Financial Hardship Standard) provide sufficient safeguards for those in financial hardship. The purpose of the credit assessment protections in the TCP Code is to prevent consumers being sold products that would place them in financial distress and therefore potentially needing the protections of the Financial Hardship Standard.

Payment methods (chapter 8)

A consistent theme on payment methods across consumer groups and government stakeholders included:

- free manual payment methods should apply to all telco products, not just services (clauses 8.10.1 and 8.10.2)
- consumers should be allowed to choose the date and frequency of their direct debit payments (clause 8.10.3) – current drafting is unlikely to meet consumer expectations.
- a timeframe is needed for notice of a failed direct debit payment (clause 8.11.3)
- 15 working days is too long for providing refunds for direct debit errors (clause 8.11.5). The timeframe would be better aligned with the 10 working days timeframe for resolving a complaint in the consultation draft Telecommunications (Consumer Complaints Handling Standard) Industry Standard.

We note that some small CSPs argued that the direct debit is the only payment method they offered and advocated for the removal of proposed manual payment methods. However, the harms associated with direct debit and the need for flexible payment methods were detailed in the ACMA's [What consumers want](#) position paper. The purpose of the TCP Code protections is to provide consumers with flexibility to discharge their financial obligations so that they do not need the protections of the Financial Hardship Standard.

Disconnection (chapter 9)

While consumer advocates and government stakeholders were concerned with the adequacy of protections in general, we note industry sought clarity on the provider awareness requirements for natural disasters. We consider the following feedback be given careful further consideration:

- disconnection provisions are insufficient to protect consumers affected from loss of service (clauses 9.1.1 to 9.1.3)
- exemptions for reconnection are too broad, especially 'uncontactable customer' (clause 9.1.1). We strongly consider the drafting to determine whether a customer is contactable should require CSPs to use the same assessment for 'uncontactable' as required under the subsection 24(3) of the Financial Hardship Standard
- natural disaster provisions lack specificity (clause 9.1.3)
- credit notice timeframes are too short (clause 9.3) – the 5 working day should be changed to 10 working days to align with the Financial Hardship Standard.

CSP-initiated contract changes (chapter 7)

Consumer advocates and government stakeholders argued that that consumers should be notified of all CSP-initiated contract changes as the consumer is best placed to assess whether they are negatively impacted. We note industry's arguments of 'notification fatigue' where CSPs are also required to notify consumers of all changes, and that it is in the interest of CSPs to promote beneficial changes.

We previously raised with CA that the consumer is best placed to assess whether they are negatively impacted by a CSP-initiated contract change and asked CA to test this in public consultation. We note the strong concerns put forward by stakeholders and encourage CA to further examine the suggestion that the consumer needs to be informed of all changes to their contract.