

# TCP Code consultation feedback of OCCOM

## **Q1. Are there any definitions or specific clauses that are not clear? Please provide details.**

**Ans** – The draft’s well-structured and precise definitions enhance clarity and consistency, ensuring a shared understanding between consumers and telecommunications service providers (CSPs). This strengthens consumer protection, promotes transparency, and supports regulatory compliance. By setting clear expectations, the definitions help prevent disputes, foster fair business practices, and build consumer confidence.

## **Q2. Recognising that there will be limited flexibility to extend general implementation timeframes, are there areas, in addition to those listed at 2.1.4, that you believe require delayed implementation? For example, will you be able to make the required updates to the CIS within 3 months of the Code being registered with the ACMA, or might this require a delayed implementation (6 months)?**

**Ans-** Yes, we acknowledge the need for timely compliance but require a **three-month period** to update internal operations to align with ACMA’s expectations. This allows for system updates such as website content, staff training, and certain revisions to the CIS and TCP training module to align with TCP norms. A structured timeline will ensure accuracy, compliance, and clear customer communication.

## **Q3. Clauses associated with data retention have been consolidated and clarified to attempt to address various (often conflicting) stakeholder feedback. Are the requirements clear, and do you have any concerns or comments?**

**Ans** - The updated Code provides clear data retention guidelines for Carriage Service Providers (CSPs), particularly in clauses 2.4.1 to 2.4.3 stating CSPs must retain records for at least two years to ensure compliance, covering customer contracts, authorizations, and vulnerability-related data. Records must also be made available to ACMA upon request, enhancing transparency and oversight.

While the framework is clearer, some ambiguity remains—such as defining when a record is "no longer required" or the retention period for vulnerability-related data. These areas could benefit from further

clarification to ensure consistency across CSPs. Overall, the updates improve accountability but may require additional guidance for uniform implementation.

**Q4. A new definition (Authorised estate representative) and new clauses have been included in the draft Code (section 4.5) to facilitate the management of a deceased customer's account. There may be some conflicts between the requirements in clause 4.5.1 and those in the Telecommunications Service Provider (Customer Identity Authentication) Determination 2022. The ACMA is currently consulting on possible changes to that Determination in January 2025. This clause will be reviewed as required in light of those discussions.**

**(a) Do you have concerns about such conflicts?**

**(b) Do you have any other comments about the proposed requirements?**

**Ans - a) Potential Conflict with Identity Authentication Requirements**

We acknowledge the intent of Section 4.5 but note a potential conflict with the Telecommunications Service Provider (Customer Identity Authentication) Determination 2022. We seek clarity on how clause 4.5.1 aligns with existing verification obligations. To prevent compliance risks, authentication requirements should align with ACMA's final determinations.

**(b) Additional Comments on the Proposed Requirements**

We support the Authorised Estate Representative framework as a secure and clear approach to managing deceased customer accounts. Key benefits include:

1. **Enhanced Security & Compliance** – Requiring official documentation (e.g., death certificates) ensures only verified representatives can access accounts, reducing fraud risks and ensuring regulatory compliance.
2. **Reduced Customer Burden** – Unlike pre-nominated Authorised Representatives, estate representatives are determined through legal documentation, simplifying account management.
3. **Operational Considerations** – ISPs may face challenges verifying estate claims due to varying documentation requirements. We recommend:
  - Standardizing verification procedures across ISPs.
  - Clear ACMA guidance on acceptable proof of death and representation.
  - Aligning verification with existing identity authentication regulations.

**Q5. Rules in relation to responsible selling in chapters 5 and 6 have been substantially strengthened in response to stakeholder feedback, particularly to address concerns about responsible sales incentive structures (section 6.1) and expectations about remedies. Are the requirements clear? And do you have any concerns or comments?**

**Ans-**Yes, we acknowledged this section as it strengthened rules promote transparency and prevent consumer exploitation. However, rule enforcement and monitoring remain key challenges. Smaller CSPs may face operational burdens in implementing cooling-off periods and incentive regulations. Adequate staff training and consumer education will be essential for smooth compliance.

While these updates significantly improve responsible selling, ongoing oversight and support for CSPs will be critical to ensuring long-term success and consumer protection.

**Q6. Credit assessment requirements at 6.2 have been substantially strengthened to increase consumer protections. These clauses require an affordability check, with an external credit check required when a customer could be liable for a debt of over a specified amount. There may be unintended consequences if the threshold for external credit checks is too low, however, and it is unclear whether the balance between responsible service provision and accessibility as presented currently is right, noting that: - running a credit check on a consumer will create a record on their credit file which may impact their ability to obtain credit in the future (including for other third parties) and/or the cost of that credit. - consumers without a credit score would be locked out of post-paid services/payment-overtime arrangements. - consumers not able to make use of a plan arrangement to, for example, buy a device interest-free over time, may be driven to more expensive forms of credit, or pawn brokers. - existing customers with a long record of paying on time, etc, may complain about poor customer service experience if asked for what they consider an unnecessary external credit check.**

**6 (a) As highlighted in the draft, the proposed trigger for an external credit check for a NEW customer is that the potential for a debt owed is over \$150. Is this a reasonable threshold? Why/why not?**

**6 (b) Is the proposed threshold of \$2000 for new or existing small business customers reasonable? Why/why not?**

**6 (c) Is the proposed threshold of \$1000 for an external credit check for existing customers reasonable? (This reflects the current, 2019, Code requirements). Why/why not?**

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**6 (d) Any other comments or concerns about the proposed credit check requirements?**

**Ans** - The proposed credit assessment requirements aim to enhance consumer protections by introducing affordability checks and external credit assessments for debts exceeding certain thresholds. While intended to prevent over-indebtedness, these measures may have unintended consequences for financial inclusion and customer access to services.

**(a) \$150 for New Customers** – While protecting consumers from unaffordable commitments, this low threshold may restrict access for financially vulnerable individuals or those with no credit history, potentially driving them toward costlier credit alternatives. *Recommendation:* A slightly higher threshold may balance protection with accessibility.

**(b) \$2000 for Small Businesses** – Reasonable given the higher financial activity of businesses. However, newer businesses with limited credit access may struggle. *Recommendation:* Consider flexibility for startups or alternative verification methods.

**(c) \$1000 for Existing Customers** – Aligns with current practices but could frustrate long-term customers with good payment history. *Recommendation:* CSPs should assess payment history before requiring external checks to avoid unnecessary disruptions.

**(d) Broader Concerns & Recommendations:**

- **Credit Access & Financial Inclusion** – Frequent credit checks can impact credit scores and limit future borrowing potential.
- **Balancing Protection & Accessibility** – Strict thresholds may push consumers toward predatory lending options.
- **Alternative Solutions** – Raising thresholds slightly or offering alternative payment plans (e.g., deposits or flexible repayment options) could enhance accessibility without increasing financial risk.

While the intent of these measures is positive, adjustments are necessary to ensure responsible lending without creating unnecessary barriers to essential telecommunications services.

**Q7. The Code requires CSPs to notify customers of CSP-initiated changes to a customer's telecommunications service contract that are detrimental (7.2.2 and 7.2.3 (a) and (b)). This rule reflects the Australian Consumer Law (ACL) requirements. Some stakeholders have suggested that the requirement**

should be to inform consumers of ALL changes, whether detrimental, neutral or positive, to remove possible subjectivity in the assessment of whether a change is detrimental. The counter-argument is that a requirement to require customers be notified of all changes not result in better consumer outcomes because: - the risk to the consumer is with detrimental change, not positive change. - CSPs are usually very keen to inform customers of positive changes (it's good marketing), but would usually do so just before, or at the time of a change being made, allowing customers to understand very quickly that the change is favourable (rather than calling the CSP to check). - there is a risk of 'the cry wolf effect' if the requirement is too broad; that is, that customers will not focus on detrimental notices if they are told of positive or neutral changes every time. Considering the different perspectives, do you consider the current drafting appropriate? Why/why not?

Ans - The current drafting of the Code, which requires CSPs to notify customers only of detrimental changes to their telecommunications service contracts, appears to be appropriate and aligned with the intent of consumer protection under the Australian Consumer Law (ACL). The primary risk to consumers lies in detrimental changes that may negatively impact their service, pricing, or contractual obligations.

Requiring notification for all changes, including neutral or positive ones, may not lead to better consumer outcomes for several reasons:

- **Focus on Detrimental Changes:** The key consumer concern is adverse changes that may affect their service experience, costs, or rights. Positive changes do not pose a risk, and neutral changes have no impact, making mandatory notifications unnecessary in these cases.
- **CSPs Already Promote Positive Changes:** Telecommunications providers have a natural incentive to communicate beneficial changes to customers as part of their marketing strategy. They typically do this effectively, ensuring that customers are well informed about any advantages they will receive.
- **Avoiding Notification Fatigue:** Overloading consumers with notifications about every change could lead to desensitization, making them less likely to pay attention when an important detrimental change occurs. This "cry wolf effect" could ultimately undermine the intent of consumer protection.

Given these considerations, the current drafting is appropriate. It ensures that consumers are alerted when necessary while avoiding excessive notifications that could dilute the importance of critical information. However, if there are concerns about subjectivity in determining whether a change is detrimental, clearer guidance on what constitutes a "detrimental" change could be beneficial.