

**8. Post Sales Support/ Customer Service**

| Summary of issues raised   | Submitters' suggested remedies   | Drafting committee (DC) response   | Action Item            |
|--|--|--|------------------------|
| <p><b>4.3.1 Post-sale support</b></p> <ul style="list-style-type: none"> <li>Customers need clearer, more frequent and timely information from RSPs to better understand their obligations and problem-solve regarding their contracts.</li> </ul>   | <ul style="list-style-type: none"> <li>(current provision: Post-sales support: details of any post-sales support for the Telecommunications Products and any fees or Charges for post-sales support.)</li> <li>Recommended words: Customer service staff must contact new customers after 3 billing cycles to see if the customer needs further assistance in understanding their obligations</li> </ul> | <p>One telco recently trialled a customer survey 3 months post sale to check in on customer. The trial is being stopped due to lack of customer response. Customer reaction has been:</p> <ul style="list-style-type: none"> <li>- feeling overwhelmed.</li> <li>- annoyed with too much correspondence</li> <li>- inconvenient and with 2FA, concerned with spam and scam.</li> </ul>   | <p>None</p>            |
| <p><b>4.3.1(g) Network coverage</b></p> <ul style="list-style-type: none"> <li>The obligation to "make information available to consumers about 'the network coverage in Australia' for their mobile services" is vague and may not operate consistently to provide accurate and useful coverage info to consumers.</li> <li>Under the current industry practice, each telco provides coverage info in its preferred format and different telcos may use different descriptors for coverage levels.</li> <li>This makes it difficult for consumers to accurately compare coverage information supplied by different telcos.</li> </ul> | <ul style="list-style-type: none"> <li>Should require telcos to supply clear and accurate information about network coverage levels for mobile services.</li> <li>This should include an obligation for coverage info to be supplied in a standardised format, to assist consumers when comparing telcos.</li> </ul>   | <ul style="list-style-type: none"> <li>The proposed solution is impractical in that one has to be plugged in and connected to test, even if there's theoretically coverage.</li> <li>However, agree with goal.</li> <li>Proposed requirement: Coverage check (for mobiles) required before selling service and results provided to customer in plain English about coverage available; AND requirement for CSPs to permit consumer to exit contract with no early exit fees if mobile network performance does not enable adequate service usage.</li> </ul> | <p>Review</p>          |
| <p><b>Customer contact methods &amp; support (4.7.1 (b) - long wait times – benchmarks</b></p> <ul style="list-style-type: none"> <li>Long wait times.</li> </ul>  | <p>Introduce service benchmarks:</p> <ol style="list-style-type: none"> <li>Time taken to get an enquiry resolved;</li> <li>Wait times to talk to or receive acknowledgement of an enquiry or</li> </ol>   | <ul style="list-style-type: none"> <li>DC to look to include whether it is possible to reasonably include retail service standards, taking into account the lack of</li> </ul>   | <p>Review/Drafting</p> |

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| <ul style="list-style-type: none"> <li>Words in the provision such as 'keep the average wait time to a reasonable minimum in the circumstances' allows loose interpretation and therefore difficult to enforce.</li> <li>Relevant customer service requirements in the TCP Code are framed around systemic actions by telcos with no timeframes for addressing a customer service issue or requirements about how customers will be kept up to date about their issue included.</li> </ul> | <p>issue (depending on the method of communication)</p> <p>3) First contact resolution for simple issues</p> <p>Recommendation:</p> <p>1) <u>Telephone contact</u>: Customer wait times to be connected to the right customer service area to handle the enquiry must be kept to a maximum of 5 minutes.</p> <p>2) <u>Live Chat</u>: an acknowledgement of enquiry within 2 mins.</p> <p>3) <u>Other contact methods</u>: email, online and social media inquiries must be acknowledged by the Supplier within one working day.</p> <p>Also: set out how customers will be kept informed about their enquiry</p> | <p>control for the RSP where there's a 3rd party involved.</p> <p>(note: extension/review of current requirements under 4.7.1)</p>                   |                              |
| <p><b>Customer contact methods &amp; support (4.7.1 (b) ) - complaints</b></p> <ul style="list-style-type: none"> <li>Taking too long</li> </ul>   | <ul style="list-style-type: none"> <li>Somewhere there needs to be a specification that the call handling for Billing Enquiries, where a menu is used, should include an option to discuss difficulty paying the bill and that this option receives preference in the queue.</li> </ul>  | <ul style="list-style-type: none"> <li>DC to consider with above.</li> </ul>   | <p>Consideration/ Review</p> |
| <p><b>Benchmarks - 4.7.1 (c) First Contact Resolution</b></p> <ul style="list-style-type: none"> <li>Under the TCP Code there are no rules specifically targeting the way that telcos ensure their customer service</li> </ul>   | <ul style="list-style-type: none"> <li>Customer service performance across all communication methods should be carefully monitored and underperformance addressed quickly.</li> </ul>  | <ul style="list-style-type: none"> <li>Monitoring requirements are included in current code at 4.7.1 – DC to review in light of comments.</li> </ul> |                              |

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| <p>staff perform to achieve an acceptable outcome for customers</p>  |  |   |                        |
| <p><b>4.7.1 Record Keeping/4.7.2 Assessing performance</b></p> <ul style="list-style-type: none"> <li>Although obligations exist in the TCP Code customer service chapter that telcos are required to collect and monitor data about their customer service performance and that customer service should be communication channel-neutral, the 2022 ACMA audit showed that telcos do not appear to be collecting this data for all contact methods. e.g. almost half of the 11 telcos included in the audit could not provide first-contact resolution data for all their communication channels.</li> </ul> | <ul style="list-style-type: none"> <li>ACMA note that the proposed <b><u>Telco Legislation Amendment (Statutory Infrastructure Providers and Other Measures) Bill</u></b> would permit the ACMA to publish league tables about telcos' performance measures, including for quality of service and customer service issues.</li> <li><b><u>The New Zealand regulator, the Commerce Commission</u></b>, is undertaking a project to improve retail service quality. One proposal being considered is to <b>regularly publish a dashboard showing the relative performance</b> of a range of customer service measures important to consumers. This is intended to improve transparency and incentivise improved customer service (which ACMA will consider once available).</li> </ul> | <ul style="list-style-type: none"> <li>The DC is considering options to address these concerns and devise a way to measure this in a standardised way (noting that RKR's do not compare apples with apples and this is a problem.)</li> <li>note comments below re first contact resolution.</li> </ul>   | <p>Drafting/Review</p> |
| <p><b>4.7.1(c) First contact Resolution</b></p> <ul style="list-style-type: none"> <li>Consumers need to contact their suppliers multiple times to resolve a general enquiry. Leads to customers seeking EDR through TIO.</li> </ul>   | <ul style="list-style-type: none"> <li>Amend provision 4.7.1(c) to read as: "Ensure that simple account administrative enquiries are resolved at first contact (for example change of contact details, requests to change plans, general account enquiries)."</li> <li>Amend provision 4.7.1 to read as: "suppliers must deal with simple enquiries</li> </ul>   | <ul style="list-style-type: none"> <li>DC will examine where this is possible. But NOTE that there's different requirements under the ID Determination, so it's not so simple. E.g. Changing contact details is classified as a high risk transaction.</li> <li>The DC suggests that there is a role for the ACMA to do some educational work to support telcos – to educate consumers</li> </ul> | <p>Review/Drafting</p> |

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|   | <p>within a maximum of two working days and more complex inquiries within five working days.”</p> <ul style="list-style-type: none"> <li>Data on how long it takes to: Change or renew plans (10.4 days); updating contact details (11.3 days).</li> </ul>   | <p>about the reasons for 2FA (and explain that it's not just telcos 'being difficult').</p>   |   |
| <p><b>4.7.1(d) Record keeping</b></p> <ul style="list-style-type: none"> <li>Consumers are required to repeat details of their complaint due to poor record keeping.</li> <li>Client interaction notes tend to be vague, difficult to decipher, and focused on the action (or inaction) of the provider, rather than the questions or issues raised by the consumer. (Notes are not detailed enough)</li> </ul> | <ul style="list-style-type: none"> <li>Amend provision 4.7.1(d) to include the word immediately: ‘Keep records of interactions between the Supplier and Customers <i>immediately</i> accessible to staff tasked with responding to such Customer Service enquiries, to aid in resolving Customer Service enquiries.’</li> <li>And add: ‘Records should include a detailed account of the Customer’s enquiry or complaint, as well as a detailed account of the advice given, and action taken, by the telecommunications provider.’</li> </ul> | <p>DC will review. It may be possible to devise a meaningful metric around no. of transfers/ repeat contacts. but note:</p> <ul style="list-style-type: none"> <li>Current Code has a requirement to keep records, but they can't always be updated in real time before the transfer (and it is not always possible to do warm transfers)</li> <li>Technology has changed since 2018 (when comments made).</li> <li>Suggest focus should be on the handling of vulnerable customers (addressing safety and trauma issues relating to repeating story.)</li> </ul> |   |
| <p><b>Metrics - Complaints in Context</b></p> <ul style="list-style-type: none"> <li>There are differences between the drivers of complaints and the CIC methodology could be further improved.</li> </ul>  | <ul style="list-style-type: none"> <li>Use an efficiency measurement technique such as Data Envelopment Analysis (DEA).</li> <li>DEA works by identifying the input and output measures for a group of comparable production units.</li> <li>The methodology proceeds to assign a set of weights for each of the p production units that maximises the output-to-input ratio subject to the constraint that these</li> </ul>   | <ul style="list-style-type: none"> <li>It is likely reasonable to consider CIC methodology improvements and whether we can consider related metrics.</li> <li>We should revisit when we have time (but we can't prioritise it at this point of the review)</li> </ul>   | <p>Revisit in 2024 when time permits.</p> |

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|  | weights make no other production unit more than 100% efficient.   |   |                 |
| <p><b>Barriers to consumers' ability to cancel contracts</b></p> <ul style="list-style-type: none"> <li>Difficult for consumers to cancel out subscriptions.</li> <li>Forced continuity refers to design features and website navigation that impede a consumer's ability to cancel or move out of a particular service - lead to consumers keeping products or services that they no longer want or need, which may cause them financial harm.</li> </ul> | <ul style="list-style-type: none"> <li>Laws requiring business offer simple online cancellation processes should be adopted.</li> <li>Examples include the               <ul style="list-style-type: none"> <li><i>National Consumer Credit Code</i> (easier credit card cancellation).</li> <li><i>Germany</i> enacted laws requiring businesses to implement a 'cancellation button.' on websites. The cancellation function is mandatory, and must be legible and clearly labelled.</li> </ul> </li> </ul> | <p>The DC agrees that it should not be overly difficult to cancel a contract but notes that this is classified as a high-risk transaction under the ID Determinations and is therefore more complicated than the commentary suggests. The DC also notes that examples given are not from this industry.</p> | None            |
| <p><b>9. Changing suppliers</b></p> <ul style="list-style-type: none"> <li>Number of out-of-date clauses.</li> </ul>   | <ul style="list-style-type: none"> <li>Review</li> </ul>  | <ul style="list-style-type: none"> <li>Review &amp; update this section &amp; ensure it doesn't repeat Access Transfer Code requirements.</li> </ul>  | Review/Drafting |
| <ul style="list-style-type: none"> <li>Customer contact methods &amp; support - see also accessibility table.</li> </ul>   |   |   |                 |

**9. Billing & Payment Methods**

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| <p><b>5. Billing (5.2 Charging Policies and Rules, charging for bills)</b></p> <ul style="list-style-type: none"> <li>• Need clear bills and a choice of flexible payment methods.</li> <li>• Consumers should be entitled to receive an accurate, itemised bill in all circumstances.</li> <li>• Code requires telcos to issue a bill to a current or former customer for each current billing period, but it contains exceptions. eg:               <ul style="list-style-type: none"> <li>○ Clause 5.2.1(b) "provided the consumer's monthly charges do not change by more than 10%, post-paid services where the consumer pays by direct debit (i.e Automatic payments), telcos do not need to issue a bill.</li> </ul> </li> <li>• Given the shift to Automatic Payments as the primary payment method, these exceptions now cover an increasingly large proportion of all telco services in Australia.</li> <li>• Consumers are entitled to accurate information about what they will pay for their telco services and how their charges are calculated before any payment is made.</li> </ul> | <ul style="list-style-type: none"> <li>• The code should contain a universal requirement for telcos to supply bills to their customers before charges for a billing cycle come due or are deducted.</li> <li>• The requirement should apply irrespective of the consumer's payment method.</li> <li>• Bills should include an itemised list of all charges and service usage information for the relevant billing period.</li> </ul> <p>Align the telco sector with other industries supplying essential services to the Australian community, such as the energy sector.</p> | <ul style="list-style-type: none"> <li>• Agree that the customer should know what, when and how much they'll be charged. Disagree with the prescriptive suggestion that it has to be via a bill.</li> <li>• DC to draft Code requirement to the effect that the customer must be advised (without cost) when and how much they will be charged, and what the charges cover. The customer must be able to easily find an itemised description of services provided.</li> </ul> | <p>Review/Drafting</p> |
| <p><b>5. Billing 5.2.4</b></p> <ul style="list-style-type: none"> <li>• Unclear drafting.</li> </ul>   | <ul style="list-style-type: none"> <li>• Suggest that the TCP Code is clarified such that a customer can be notified of a</li> </ul>  | <ul style="list-style-type: none"> <li>• Review wording</li> </ul>  | <p>Review/Drafting</p> |

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|   | Bill Media change as the Supplier considers appropriate (eg via the website).  |   |                  |
| <b>Billing 5.3.1(o)</b> <ul style="list-style-type: none"> <li>Contact number supplied needs to be specifically to a team that deals with billing enquiries</li> </ul>  | <ul style="list-style-type: none"> <li>In section 5.3.1(o), include a requirement that the contact information be specified as "for billing enquiries or to discuss with the supplier difficulties in paying the bill before the due date".</li> </ul> | <ul style="list-style-type: none"> <li>Agree that easy contact method should be available.</li> <li>Prescribing that it be a dedicated number may not be the best solution.</li> </ul> <p>Incl Code wording to the effect that:</p> <ul style="list-style-type: none"> <li>There must be a readily available pathway for customers to contact their telco about their enquiry.</li> </ul> | Review/Drafting  |
| <b>Billing 5.3.1</b> <ul style="list-style-type: none"> <li>Telco bills should be simple and easy for consumers to understand.</li> <li>Difficult to understand the charges on consumer's telco bills especially where they are billed for multiple products and services.</li> </ul> | <ul style="list-style-type: none"> <li>In addition to the current content requirements in clause 5.3.1 of the Code, the Code should require telcos to provide consumers bills that are simple and easy to understand.</li> </ul>                       | <ul style="list-style-type: none"> <li>Agree.</li> <li>DC to include requirement that account information is simple and easy to understand (NB: need definition to cover 'bills' that aren't bills in the traditional sense of the word.)</li> </ul>  | Agree - Drafting |
| <b>Billing 5.4.3</b> <ul style="list-style-type: none"> <li>Poorly worded</li> </ul>  | <ul style="list-style-type: none"> <li>Should say "will not be in breach" because as it is worded it says that we "WILL NOT" breach 5.4.2 "due to" those things (include Force Majeure)</li> </ul>   | <ul style="list-style-type: none"> <li>DC to address in drafting</li> </ul>   | Review/Drafting  |
| <b>Billing - Payment methods (5.6)</b> <ul style="list-style-type: none"> <li>Direct debit should not be the only fee-free option of charge.</li> <li>Timing of DD payments which do not align with consumers income payments</li> </ul>  | <ul style="list-style-type: none"> <li>A flexible approach to bill payment <ul style="list-style-type: none"> <li>Increased payment options other than direct debit; and</li> </ul> </li> </ul>  | <p>DC looking to requirement more for payment flexibility</p> <p>Note that the value of bill smoothing is unclear – it's not like electricity where more electricity is used in winter, for example.</p>  | Review/Drafting  |

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| <p>can result in late fees or dishonour fees, which ultimately contribute to further FH.</p> <ul style="list-style-type: none"> <li>By moving to direct debit, telcos are locking out rural and older populations who pay their rates, do their banking and pay their bills at local Post Offices, which are integral small businesses to their communities. By not offering BPAY, telcos are excluding members of the population who do not wish to utilise credit facilities. By not offering both of these things, telcos are removing the right of consumers to pay their bills their chosen way (not wedded to BPAY or AuPost but want concept of control &amp; choice.)</li> </ul> | <ul style="list-style-type: none"> <li>Allowing customers to part pay their bills linked to their income payment frequency – such as bill smoothing.</li> <li>Telcos should reconsider charging different payment methods or paper bills.</li> <li>ACMA is looking at the Australian National Energy Rules to be adopted or amended for the telco industry, including through direct regulation. The Energy Rules state energy providers must accept payment for a bill by a small (end-user) customer in person, over the phone, by mail, direct debit, electronic funds transfer and by CentrePay.</li> <li>Telcos should ensure that they have clear consent from customers for payment by direct debit or other automatic payment authorisations, and that customers understand what the payments will be and when they will occur. Amounts higher than a customer authorises should not be removed, and payment arrangements cancelled promptly if the customer moves to a different service, so they are not paying for an old service they are not using.</li> </ul> <p>Recommendation</p> |                                  |             |



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|  | <ul style="list-style-type: none"> <li>The code should prescribe mandatory payment methods for telcos to offer all consumers. The mandatory payment methods should at a min include:               <ol style="list-style-type: none"> <li>at least one method that is not automatic or based on DD, and</li> <li>for those consumers who use and request it, Centrepay.</li> </ol> </li> </ul>   |  |                        |
| <p><b>Billing payment options- DD &amp; payment failure</b></p> <ul style="list-style-type: none"> <li>There are very few rules regulating the conduct of telcos if direct debits fail, including how a telco communicates the failure to consumers, flexibility in allowing payment, and steps they should take before cancelling a device contract.</li> </ul> | <p>Failed DD should not lead to:</p> <ol style="list-style-type: none"> <li>A suspended, restricted or disconnected service.</li> <li>The remaining contract payment being required to be paid in full immediately.</li> </ol> <p>Before the telco makes reasonable efforts to:</p> <ol style="list-style-type: none"> <li>confirm its own systems are not at fault</li> <li>contact + notify customer of failed DD attempts and tries to reach a short-term flexible payment solution with the customer.</li> <li>If payment cannot be provided under short-term flexible arrangement, inform customer of its FH policy and allow reasonable time to apply for assistance.</li> </ol> | <ul style="list-style-type: none"> <li>Agree that these issues need to be addressed in Code. DC to draft new clauses accordingly.</li> </ul> | <p>Review/Drafting</p> |
| <p><b>Billing payment options 5.6.1 not providing protections for those outside of FH program</b></p>  | <ul style="list-style-type: none"> <li>?</li> </ul>  | <ul style="list-style-type: none"> <li>This appears to be a definitional confusion issue. Customers get bill extensions outside</li> </ul>   |                        |

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| <ul style="list-style-type: none"> <li>While telcos can offer payment plans and bill payment extensions outside of formal FH programs, these do not attract the TCP Code protections (for example, avoiding credit management action), afforded to customers on a formal FH program.</li> </ul> |                                | <p>of FH arrangements frequently - and often don't need further assistance or protection as a consequence.</p> <ul style="list-style-type: none"> <li>Presumably these issues will be managed in the FH Std, but it needs to be very clear that formal financial hardship (FH) arrangements and financial assistance measures are different, and that debt management within a FH arrangement is separate (and different) to credit management actions unrelated to FH. definitions in both that and the Code are vital. Working definitions are:               <ul style="list-style-type: none"> <li><u>Financial assistance measures</u> – actions to reduce costs that require no assessment or conditions to be met. These may include, for example, the customer moving to a cheaper plan.</li> <li><u>Financial hardship arrangements</u> – formal arrangements requiring an assessment against a formal FH policy with agreed terms. Focus is on managing the customer's debt (i.e. agreeing on an appropriate payment plan).</li> <li><u>Credit management</u> – actions relating to recovery of monies owed (which may or may not be related to financial hardship). These may be taken by the</li> </ul> </li> </ul> |             |

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|   |  | CSP directly, or by a 3rd party contracted by the CSP.   |  |
| <b>Billing - late fees</b> <ul style="list-style-type: none"> <li>Stop imposing charges or late fees for late payments caused by delayed processing (of DD).</li> </ul>   |  | <ul style="list-style-type: none"> <li>Late fees are relevant only to post-paid services. If 'delayed processing' means a delay on the telco's side, DC agrees that the customer should not have fees imposed on them – DC to include appropriate requirements in code to address this.</li> </ul> | Review/Drafting  |
| <b>Billing - refunds for incorrect DD</b> <ul style="list-style-type: none"> <li>5.7.1(g) requires telcos to ensure consumers receive "timely" refunds for incorrect DD.</li> <li>Telcos should be required to refund incorrect DD payments within a set timeframe</li> </ul>   | <ul style="list-style-type: none"> <li>The Code should require telcos to refund incorrect or unauthorised DD payments within a prescribed timeframe.</li> <li>The Code should clarify that any funds debited from a consumer's account after the consumer advises they dispute charges or have withdrawn their authority for DD payments must always be refunded to the consumer, irrespective of whether the charges were otherwise valid.</li> </ul> | Agree. DC drafting appropriate clauses to cover this.  | Review/Drafting  |
| <b>Third party charges (5.8)</b> <ul style="list-style-type: none"> <li>5.8 is helpful but needs further protections to prevent the harm from arising in the first place.</li> <li>The recommendations will provide more control and transparency to consumers over their access and expenditure on 3rd party services billed via their telco.</li> </ul> | <ul style="list-style-type: none"> <li>Suppliers must not bill for Third Party Charges without direct account holder activation of this facility with the Supplier, i.e. must be opt in, not opt out.</li> <li>Suppliers must set the default spend limit for Third Party Charges at \$0, and upon account holder activation of Third-Party Charging, apply the spend limit amount selected by the account holder.</li> </ul>                          | Clarification of issue required. Does not appear to be a current issue. (Current rules cover this.)  | A few email exchanges with ACCAN clarified that the issue of subscriptions was no longer a key issue. However, what is an issue, is customers not being clear what |

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|  | <ul style="list-style-type: none"> <li>Suppliers must not bill for Third Party Charging if a double opt-in arrangement for each third party billed service is not in place.</li> <li>Suppliers must not bill for Third Party Charges if the Consumer has sent a STOP request to the third-party service</li> </ul>   |  | <p>they are signing up to, particularly with bundles.</p> <p>Action is therefore around clear advertising/info.</p> |
| <p><b>Billing - detrimental communications for month-to-month services</b></p> <ul style="list-style-type: none"> <li>A telco supplier may not change the T&amp;Cs of a contract for service unless the changes will not have a negative effect on consumers. As such, a supplier may not increase the price for a service during the contract period for that service.</li> <li>However, consumers or small businesses may be on a month-to-month service contract, rather than a longer-term contract.</li> <li>Accordingly, a supplier may increase the price of their service from time to time.</li> <li>Further, we understand that suppliers may, on occasion, change the terms of a service offered to a consumer due to a change in the supplier's capability.</li> </ul> | <ul style="list-style-type: none"> <li>Look at other sectors/requirements.</li> <li>British Office for Communications (Ofcom) requires telco suppliers provide notice that a contract is coming to an end. Ofcom research has indicated this led to consumer benefit that nudge consumers to seek out better deals.</li> <li>Referenced ACCC's recommendation on the Home Loan Price Inquiry regarding prompts for consumers to look for a better offer.</li> <li>AER's Better Bills requirement that suppliers include information within bills about the best possible offer currently available to them.</li> </ul> | <ul style="list-style-type: none"> <li>We agree with principle. Ofcom's approach seems reasonable (replicating energy's approach wouldn't work as telco offerings are far more diverse than energy's; there are better ways of ensuring that the consumer gets a good outcome than including on a bill).</li> <li>DC to look at incl relevant notifications in code in relation to fixed contracts.</li> </ul> | <p>Review/Drafting</p>  |

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| Summary of issues raised   | Submitters' suggested remedies  | Drafting committee (DC) response  | Action Item                   |
| <b>Billing - paper bills</b> <ul style="list-style-type: none"> <li>Most consumers happy to get online bill, but some consumers want paper.</li> <li>Consumers frustrated at having to pay to receive a paper bill.</li> <li>Some customers struggle with internet capacity and usage so prefer to receive paper bills.</li> <li>Unfortunately, most RSPs charge a fee to customers of around \$2 a month to be sent a paper bill and only waive this fee if the customer meets certain criteria.</li> <li>These fees reinforce the digital divide.</li> </ul> | <ul style="list-style-type: none"> <li>No charge for providing a bill in the format chosen by the consumer.</li> <li>Cost of providing billing factored into the cost of doing business.</li> <li>Exemption programs should be offered.</li> </ul>  | <ul style="list-style-type: none"> <li>Paper bills are cost-free for those with an identified need. (Note: n/a for many business customers)</li> <li>Part of current policy is environmental - reduce paper usage.</li> <li>But DC will review 'minimum standards' on information requirements to ensure appropriately accessibility of service charge information (when/why/how).</li> </ul> | Review the minimum standards. |
| <b>Billing</b> <ul style="list-style-type: none"> <li>out of date requirements.</li> </ul>   | <ul style="list-style-type: none"> <li>Review ongoing need to include extensive information in <ul style="list-style-type: none"> <li>5.1 Information about charging, Bills and payment processes,</li> <li>5.2 Charging policies</li> <li>5.3 the Bill</li> <li>5.6 Payment options</li> </ul> </li> </ul> | Will be picked up in general review/update work   | Review                        |
| <b>5.2.5(e) and 5.5.3 BILLING (and retention)</b> <ul style="list-style-type: none"> <li>What is the interaction between these two clauses?</li> </ul>   |   | <ul style="list-style-type: none"> <li>One covers services, second covers products.</li> <li>(principle: customer knows what they are paying for. Or 'make available in a 'durable medium' ... for free for 2 years post connection (per current requirement) (note: is actually kept for 6 per tax office requirements)</li> </ul>   | Review/Drafting               |

| 9. Billing & Payment Methods   |   |   |                              |
|--|---|---|------------------------------|
| Summary of issues raised   | Submitters' suggested remedies  | Drafting committee (DC) response  | Action Item                  |
|  |   | <ul style="list-style-type: none"> <li>Review whole section to simplify: what's needed and why concepts.</li> </ul>                   |                              |
| <p><b>5.8.1 third party charges.</b></p> <ul style="list-style-type: none"> <li>Third Party Charges under the TCP Code applies to "Charges collected by a Supplier on behalf of another commercial entity, for any goods and services provided by that other commercial entity" while the Complaints Handling Standard applies to complaints about a telco's 'telecommunication products' which includes: <ul style="list-style-type: none"> <li>A listed carriage service or any service supplied by a carriage service provider in connection with that service;</li> <li>A content service (other than a subscription broadcasting service or a television subscription narrowcasting service) provided by a carriage service provider in connection with the supply of a listed carriage service; and</li> <li>Any goods supplied by a carriage service provider for use in connection with the supply of a telecommunications service, whether or not the goods are supplied in conjunction with, or separately from, a telecommunications service</li> </ul> </li> </ul> | <ul style="list-style-type: none"> <li>"Where a Supplier includes Third Party Charges on a Customer's Bill, a Supplier must address all enquiries made to it regarding those Third-Party Charges and resolve all Complaints in accordance with the Telecommunications (Consumer Complaints Handling) Industry Standard 2018."</li> <li>Unless, of course, CA think that these types of complaints are not in scope of the CHS.</li> </ul> | <ul style="list-style-type: none"> <li>Agree.</li> <li>Update Code with suggested wording - to update it to recognise CHS.</li> </ul> | Accept – Update accordingly. |

| <b>9. Billing &amp; Payment Methods</b>  |  |   |                    |
|--|--|---|--------------------|
| <b>Summary of issues raised</b>  | <b>Submitters' suggested remedies</b>  | <b>Drafting committee (DC) response</b>   | <b>Action Item</b> |
| <ul style="list-style-type: none"> <li>Billing 5.3.1 New NBN Transfer Code requirement to add AVC to bill</li> </ul> | <ul style="list-style-type: none"> <li>Should consider adding the AVC requirement to billing content for NBN services once Transfer code finalised</li> <li>(AVC is identifier for NBN service - relates to new NBN transfer Code. is basically replacing phone number on the bill. Used to stop unauthorised transfer)</li> </ul> | <ul style="list-style-type: none"> <li>Agree – intend to include in Code words to the effect: 'Make available to consumer' on bill/online etc. (NB: once code registered, there will be 12-month implementation timeframe)</li> </ul> | Review/Drafting    |

| 10. Credit/Debt Management/ Disconnection   |  |  |                     |
|---|--|--|---------------------|
| Summary of issues raised  | Submitters' suggested remedies   | Drafting committee (DC) response   | Action Item         |
| <p><b>6. Credit and debt management</b></p> <ul style="list-style-type: none"> <li>6.1.1(a) Existing customer credit assessment / 6.1.1(b) New Customers</li> <li>The Code requires more robust credit assessment rules to protect consumers.</li> <li>6.1.1(a) only requires telcos to base assessment off consumer's payment history with that telco – doesn't require telcos to consider a consumer's overall income or other expenses.</li> <li>6.1.1.(b) Only require external credit check and assess consumer's income/savings. Not enough to assess capacity to pay.</li> <li>Complaints from consumers – Credit Assessments do not factor in living expenses.</li> </ul> | <p>TIO</p> <ul style="list-style-type: none"> <li>The Code should include more comprehensive requirements for Credit Assessments.</li> <li>At a minimum, an effective credit check should include consumers' income, cost of their existing telco services, their living expenses, and other financial liabilities.</li> <li>To balance this requirement with the need to protect consumers' privacy, the Code should also prescribe a timeframe after which telcos must destroy credit assessment information.</li> <li>(Impact on PI noted but TIO believes on balance more data collection justified)</li> </ul> <p>ACCAN:</p> <ul style="list-style-type: none"> <li>RSPs must be required to assess the suitability of a post-paid service against a consumer's capacity to pay. this should, at minimum, include checking a customer's: <ul style="list-style-type: none"> <li>Proof of income; and</li> <li>Proof of housing costs (rent receipt, copy of lease, mortgage repayments).</li> </ul> </li> </ul> | <p>DC to review requirements with a focus on the risk of financial harm, noting that there is no single solution to address this, therefore review will consider a collection of updates to address underlying causes as well as the risk of financial harm. Noting:</p> <ul style="list-style-type: none"> <li>Appropriate level of credit check depends on ability to create debt.</li> <li>Attempting to put a credit check on cheaper services is intrusive and may effectively block some consumers from obtaining services.</li> <li>Privacy is an issue and DC questions the TIO's assumption on balance. Reports reveal that 3/4 (OAIC data) of Australians believe data breaches are a month the biggest privacy risks they face and consumers are already not wanting to share the PI already requested.</li> <li>Note that telcos can ask about source of income (and do for new customers) but is seen as very intrusive and customers complain. Asking for proof our housing costs is not palatable.</li> </ul> | <p>Review/Draft</p> |
| <p><b>6. Credit and debt management</b></p> <ul style="list-style-type: none"> <li>6.1.1 Assess capacity to pay</li> </ul>  | <ul style="list-style-type: none"> <li>ACMA recommend the current arrangements under the TCP Code</li> </ul>   | <ul style="list-style-type: none"> <li>Regarding compliance: balance of record keeping and privacy invasion. Not clear what</li> </ul>   | <p>Review/Draft</p> |



| 10. Credit/Debt Management/ Disconnection   |   |  |              |
|---|---|--|--------------|
| Summary of issues raised  | Submitters' suggested remedies  | Drafting committee (DC) response   | Action Item  |
| <ul style="list-style-type: none"> <li>No obligation to sell a cheaper alternative to the customer if they are unlikely to afford the service after a credit check.</li> <li>Lack of record keeping requirements make it difficult to assess compliance (eg., to demonstrate compliance with capacity to pay assessments, and what steps were taken if a customer is assessed as being unlikely to be able to pay). <ul style="list-style-type: none"> <li>Credit assessments are subjective with the telco determining the criteria that applies and in a way that is not consistent across the industry.</li> </ul> </li> </ul> | <p>should be replaced with consumer protections that put clear obligations on telcos and require the telcos to demonstrate their compliance. These obligations should be easily understood by consumers and have enhanced enforcement mechanisms that the ACMA can use if non-compliance occurs.</p> <ul style="list-style-type: none"> <li>Responsible selling obligations should be framed around the need for sales</li> <li>practices to deliver fair, transparent and responsible outcomes for the consumer</li> <li>In the UK 'unfairness' is defined as causing significant imbalance in the parties' rights and detriment to the consumer. The consideration for unfairness takes into account all circumstances existing when the terms of sale were agreed to, which includes a person's vulnerability</li> </ul> | <p>records would be required to test compliance. We think this is better addressed through ensuring responsible selling - and incl metrics around training, processes etc.</p> |              |
| <p><b>6.1.1 Assess capacity to pay</b></p> <ul style="list-style-type: none"> <li>Suppliers must undertake a Credit Assessment before providing a Post-Paid Service with a minimum term greater than one month to a Consumer and explain the financial implications of the provision of that Post-Paid Service to the Consumer or their Guarantor.</li> </ul>   |   | <ul style="list-style-type: none"> <li>See comments in definitions - it is pretty clear, but DC will review in drafting.</li> </ul>  | Review/Draft |

**10. Credit/Debt Management/ Disconnection**

| Summary of issues raised   | Submitters' suggested remedies  | Drafting committee (DC) response  | Action Item         |
|--|---|---|---------------------|
| <ul style="list-style-type: none"> <li>Some Suppliers failed to realise that the broad wording also captures business Consumers seeking to purchase a Post-Paid Service with a minimum term of greater than one month.</li> </ul>  |   |   |                     |
| <p><b>6.1.3 Advising the customer about liability</b></p> <ul style="list-style-type: none"> <li>The existing requirement in Clause 6.2.1(b) that the Supplier inform a customer who is not the principal end user that they remain liable for the service has proved inadequate, especially in the context of family violence.</li> <li>One of the ways that domestic and family violence presents in the telecommunications sector is when a perpetrator puts all internet and phone accounts in the name of the victim through pressure, fraud, or coercion, thereby leaving the victim of family violence with the legal burden of paying the bill.</li> </ul> | <ul style="list-style-type: none"> <li>A Supplier should not accept a customer for a telco service if it is aware that the customer will not benefit from the service. Where a customer did not benefit from the service, and the Supplier was, or should have been, aware of this at the time of provision of service, the Supplier should release the customer from liability for the service; and</li> <li>The Supplier should also adopt measures to identify situations where a customer is unlikely to benefit from the service, including:               <ul style="list-style-type: none"> <li>Where bundled or multiple contract sales occur;</li> <li>Where customers already have a service but are requesting multiple services; or</li> </ul> </li> <li>Where a person other than the account holder is trying to change the account or increase the service.</li> </ul> | <ul style="list-style-type: none"> <li>Some of this is rather simplistic and may lead to unsafe outcomes for staff and the DFV victim.</li> <li>HOWEVER, DC agrees with general gist of what is trying to be achieved. These issues have been examined in detail as <b>they apply specifically to the telco sector</b> in the DFV Guideline. Provisions will be included to require training and processes etc to help staff recognise and appropriately address possible DFV cases.</li> </ul> | <p>Review/Draft</p> |

**10. Credit/Debt Management/ Disconnection**

| Summary of issues raised  | Submitters' suggested remedies   | Drafting committee (DC) response   | Action Item            |
|---|--|--|------------------------|
| <p><b>6.5.2 Timing of notification</b></p> <ul style="list-style-type: none"> <li>• Clause allows a notification about 85% usage (and other thresholds) to go out up to 48 hours.</li> <li>• AFTER that threshold has been reached, meaning that a customer MAY already have been charged for having had their data automatically topped up.</li> </ul> | <ul style="list-style-type: none"> <li>• Make the requirement that telcos must provide notification within 1 hour of the threshold being reached.</li> <li>• NB: TIO raise similar point and suggest that the top-up be opt-in, with clear notification of how to enable/disable this feature.</li> </ul>  | <ul style="list-style-type: none"> <li>• DC is considering whether it is technically feasible for the notification period requirement to be reduced to 'up to 24 hours', noting that there will necessarily need to be caveats to account for the fact that the CSP may itself not receive notification.</li> <li>• A more effective solution to the consumer detriment issue raised is to require that providers provide clear information to assist educate consumers about the product costs and options for control – i.e. if to not use auto top-up if there is concern about costs.</li> </ul> |                        |
| <p>TIO's details not included on notices.</p>   | <ul style="list-style-type: none"> <li>• Reminder, barring, suspension, and disconnection notices should list TIO's contact details.</li> </ul>  | <p>Notices need to focus on key information – including urgency of customer talking to their provider. Including TIO on notices will increase notice length and will result in calls to TIO before the CSP (not appropriate)</p>   | <p>None.</p>           |
| <p><b>6.7.1a) Prior notice of restriction, suspension or disconnection UNLESS listed exceptions apply</b></p> <ul style="list-style-type: none"> <li>• listed exemptions not being applied consistently by some telcos as the definition in credit management does not specifically include 'automatic payments'</li> </ul>                             | <ul style="list-style-type: none"> <li>• The revised Code should explicitly apply the notice requirements for barring, suspension, and disconnection of services to situation where the barring, suspension, or disconnection occurs following a missed Automatic Payment.</li> <li>• Where a telco disconnects a consumer's service in contravention of the disconnection notice requirements, the Code should require the telco to reinstate the service.</li> </ul> | <ul style="list-style-type: none"> <li>• DC looking to include new obligation around reminder notices (noting consequences of inaction) where there are missed automatic payments for prepaid services (whether traditional prepaid or upfront subscription services).</li> </ul>  | <p>Review/drafting</p> |

| 10. Credit/Debt Management/ Disconnection   |  |   |             |
|---|--|---|-------------|
| Summary of issues raised  | Submitters' suggested remedies   | Drafting committee (DC) response  | Action Item |
| <p><b>6.7 Notice to Restrict, Suspend or Disconnect a service for Credit and/ or debt Management Reasons</b></p> <ul style="list-style-type: none"> <li>Consumers felt intimidated by the process.</li> <li>Concerned they were not given appropriate notice that debt collection was going to occur.</li> <li>Participants were generally told about their referral to a debt collection service via an email or a text message (some participants may have preferred a phone call).</li> <li>No notice was given of debt collection - the communication was received after the referral had occurred, and it came from the debt collection service, rather than the telco provider.</li> <li>Debt collection limits people's options to receive financial assistance or loans, including interest-free loans intended to assist those in financial difficulty.</li> </ul> | <ul style="list-style-type: none"> <li>Notification by telco provider before having debt is referred to a debt collection agency.</li> <li>More could be done to forewarn customers about the possibility of disconnection before it occurred.</li> <li>One participant noted they would have preferred a phone call from their provider, as a text message did not convey an appropriate level of seriousness and was lost among the many other marketing and direct communications* from the telco provider.</li> </ul> <p>*though it was also noted by ACMA that, 'while few participants had actually been disconnected from their telco services recently, more participants had been threatened by their provider that their services would be disconnected if they did not pay their bills by a set date', and that this provider contact "created a sense of urgency and, in some cases, stress in participants" - which would suggest it DID create the appropriate seriousness. And that these providers followed the code requirements.</p> | <p>DC to consider how this intersects with FH Standard. BUT:</p> <ul style="list-style-type: none"> <li>Notice must be given under the current Code provisions. By the time debt collection action is underway, the customer will have already received numerous notifications.</li> <li>It is required that records about this are kept.</li> <li>If a breach occurs, the ACMA can and does act.</li> <li>It is generally difficult to contact a customer by phone (even assuming that they have not been disconnected) as people are suspicious of scam/fraud if they receive a call advising of debt collection.</li> <li>Note the * in the column to the left.</li> </ul> | <p>none</p> |
| <p><b>6.7 Notice to restrict, suspend or disconnect a service for credit and/or debt management reasons.</b></p>  | <ul style="list-style-type: none"> <li>Recommendation 1: The Code should specify that barring, suspension, and</li> </ul>  | <ul style="list-style-type: none"> <li>Regarding recommendation 1: this IS a last resort in current code.</li> </ul>  | <p>none</p> |

| 10. Credit/Debt Management/ Disconnection   |  |  |   |
|---|--|--|---|
| Summary of issues raised  | Submitters' suggested remedies   | Drafting committee (DC) response   | Action Item                                       |
| <ul style="list-style-type: none"> <li>Suspension or disconnection of telco services should be a last-resort measure, considering the essential nature of telco services.</li> </ul>  | <p>disconnection of services should be considered only as a last resort after a telco has proactively offered and exhausted payment assistance options.</p> <p><u>Recommendation 2:</u> Sufficient notice before disconnection minimum requirement that:</p> <ol style="list-style-type: none"> <li>Send a disconnection warning notice, followed by a separate disconnection notice, before disconnecting</li> <li>Make genuine attempts to contact the consumer to discuss payment assistance options in addition to sending the notices.</li> </ol>   | <ul style="list-style-type: none"> <li>Regarding recommendation 2: already in code. (plus FH STD overtaken this).</li> </ul> |   |
| <p><b>6.7- notice</b></p> <ul style="list-style-type: none"> <li>Telcos are not obligated to proactively identify and offer help to consumers experiencing payment difficulties (This is inconsistent with other obligations for suppliers of essential services).</li> </ul> | <ul style="list-style-type: none"> <li>The Code should include obligations for telcos to proactively identify and offer assistance to consumers who may be experiencing payment difficulties. This should include obligations for a telco to offer help to any consumer receiving a restriction, suspension, or disconnection notice (rather than only referring the consumer to its FH policy).</li> <li>Suggest that could be similar to the Victorian Retail energy sector where suppliers required to contact consumers where the consumer has more than \$55 overdue on their account.</li> </ul> | <ul style="list-style-type: none"> <li>Overtaken by Standard.</li> </ul>   | None – Covered by the Financial Hardship Standard |

| 10. Credit/Debt Management/ Disconnection  |  |  |                                    |
|--|--|--|------------------------------------|
| Summary of issues raised   | Submitters' suggested remedies   | Drafting committee (DC) response   | Action Item                        |
| <p><b>6.7 Notice 6.7.1(a)(i)</b></p> <ul style="list-style-type: none"> <li>Exception in 6.7.1 (a)(i) permitting an RSP to cut off a service without notification if it considers the customer or the account status is an unacceptably high credit risk to be unfair, and that it should be removed.</li> <li>ACCAN questions whether this is consistent with the unfair contract provision of the ACL</li> </ul> | <ul style="list-style-type: none"> <li>6.7.1(a)(i) to be removed.</li> </ul>   | <ul style="list-style-type: none"> <li>This is to protect customers who e.g. accrue a huge amount of debt in a very short period - they need the service cutting off immediately to protect them (just as a bank would cancel a credit card if there's suspected fraud.).</li> <li>DC will consider whether the issues would be made clearer making the concept of risk to the consumer, and put an example in to show where this might be reasonably used. But note that the intended audience of the Code is industry, not consumers.</li> </ul> | <p>Include example in drafting</p> |
| <p><b>Overall disconnection</b></p>  | <ul style="list-style-type: none"> <li>ACMA is examining Canada and NZ Industry Code on disconnection, which sets out a detailed process for the disconnection of telco customers to see if we could adopt them in Aus.</li> </ul> | <ul style="list-style-type: none"> <li>Noted</li> </ul>  |                                    |
| <p>Debt collection activities – duplication</p>  | <ul style="list-style-type: none"> <li>Remove as code rules because of duplication with ACCC guidance.</li> </ul>  | <ul style="list-style-type: none"> <li>Noted.</li> <li>DC to review in context.</li> </ul>   | <p>Review in context.</p>          |
| <p><b>6.6, 6.7 and the use of 'courtesy notices', in addition to formal reminder notices.</b></p> <ul style="list-style-type: none"> <li>Expectations?</li> </ul>  | <ul style="list-style-type: none"> <li>Discussion with the ACMA on the use of 'courtesy notices' in addition to formal reminders under 6.6 and 6.7 and what content is required in which notice.</li> </ul>                        | <ul style="list-style-type: none"> <li>DC to consider reference to the ACMA factsheet which outlines ACMA expectations. (Rules to protect customers in financial hardship   ACMA)</li> <li>Advice about new reminders before debit notices being sent are being considered</li> </ul>  | <p>Review</p>                      |
| <ul style="list-style-type: none"> <li>6.1 Responsible provision of Telco products.</li> </ul>   | <ul style="list-style-type: none"> <li>To assist compliance, it may be helpful to explain how device payment plans intersect with this obligation e.g., the</li> </ul>   | <ul style="list-style-type: none"> <li>Agreed – see earlier comments re addressing debt risk harm.</li> </ul>  | <p>Review/Drafting</p>             |

| 10. Credit/Debt Management/ Disconnection  |   |  |                              |
|--|---|--|------------------------------|
| Summary of issues raised   | Submitters' suggested remedies  | Drafting committee (DC) response   | Action Item                  |
|  | provision of a modem or handset on a 12 or 12-month contract  |  |                              |
| <ul style="list-style-type: none"> <li>6.2 Definition of restriction not clear</li> </ul>  | <p>The concept of Restriction could be clarified depending on the context it is being used. That is:</p> <ul style="list-style-type: none"> <li>Restriction is broadly defined in the TCP Code.</li> <li>Restriction is used in various context to require "Restrictions" to be called out in advertising and the CIS (see eg cl 4.1.1 and 4.2.2(b)) but also in relation to Restricting a service in the event of credit management (see e.g. cl 6.7.4) and as a means of managing services as a Spend Management Tool (see e.g. cl 6.4.4(c).</li> </ul> | <ul style="list-style-type: none"> <li>DC to look at wording to ensure consistent terminology. (currently uses e.g. restrictions/ limitations interchangeably). + <ul style="list-style-type: none"> <li>cancellation - no service</li> <li>restriction - limited</li> </ul> </li> <li>Consider including examples, incl. note to make it clear to customers what terms mean)</li> </ul> | Agree – Review/Drafting      |
| <ul style="list-style-type: none"> <li>6.5.1 Provision of Usage Notification.</li> </ul>   | <ul style="list-style-type: none"> <li>Suggest it is clarified that the Telecommunications Service Provider (International Mobile Roaming) Determination 2019 applies to international mobile roaming services.</li> </ul>  | <ul style="list-style-type: none"> <li>agree. update to include cross-ref</li> </ul>   | Accept – Update as proposed. |
| <ul style="list-style-type: none"> <li>6.7.2 (c) - Ensure that the primary method of notification used is a format reasonably acceptable to the Customer based on their usage history</li> </ul> | <ul style="list-style-type: none"> <li>May be helpful to clarify what is meant by "on their usage history."</li> </ul>  | <ul style="list-style-type: none"> <li>DC to review and consider including words from ACMA Fact sheet on notifications.</li> </ul>   | Review/drafting              |
| <ul style="list-style-type: none"> <li>7.1.2 (a) Repetition of Clause 6.6</li> </ul>   |   | <ul style="list-style-type: none"> <li>Noted. Reviewing all structure &amp; code.</li> </ul>   | Review/drafting              |





**11. Complaint Handling**

| Summary of issues raised   | Submitters' suggested remedies   | Drafting committee (DC) response  | Action Item   |
|--|--|---|---|
| <ul style="list-style-type: none"> <li>55% of complaints to the TIO, are a result of the no or delayed action by provider</li> </ul>   | <ul style="list-style-type: none"> <li>Room for improvement in service provider responsiveness</li> </ul>  | <ul style="list-style-type: none"> <li>Out of scope. But this is a very wide 'catch-all' complaints category and not therefore useful in allowing meaningful analysis of the problems with a view to improving consumer outcomes. This is an issue that we have discussed with the TIO and both parties agreed that work should be done to allow the data to be more useful.</li> </ul> | <p>Out of scope – discussed with the TIO that further work is to be done.</p> |
| <ul style="list-style-type: none"> <li>Any changes to the TCP Code with respect to complaint handling should be made in consideration of the Telecommunications (Consumer Complaints Handling) Industry Standard 2018.</li> </ul>  | <ul style="list-style-type: none"> <li>Ensure any changes to complaint handling aligns with other legislation already in place to ensure there is no duplication and expansion on the already wide number of legislative and regulatory obligations CSPs are under.</li> </ul> | <ul style="list-style-type: none"> <li>Out of scope</li> </ul>  | <p>None – Out of scope.</p>   |
| <ul style="list-style-type: none"> <li>Telco employee didn't read TCP Code .</li> </ul>  |  | <ul style="list-style-type: none"> <li>Complaints out of scope. Knowledge of TCP Code IS a requirement - DC to make sure it's clear in training section</li> </ul>  | <p>Out of scope – DC to improve training section to make this clear.</p>      |
| <ul style="list-style-type: none"> <li>ACMA attitude to complaints</li> <li>The ACMA saw fit to provide no acknowledgement regarding a legitimate complaint, and instead defended their decision to keep the matter closed, even though their original decision to close the matter was based on a misunderstanding of facts.</li> </ul> | <ul style="list-style-type: none"> <li>ACMA should treat consumers with courtesy and respect as the ACMA claim to be practising.</li> </ul>  | <ul style="list-style-type: none"> <li>Noted</li> <li>Out of scope</li> </ul>   | <p>None – Out of scope.</p>   |

## 11. Complaint Handling

| Summary of issues raised  | Submitters' suggested remedies   | Drafting committee (DC) response  | Action Item     |
|---|--|---|-----------------|
| <ul style="list-style-type: none"><li>Complaint handling is not relevant anymore as a chapter heading as not in Code.</li></ul> | <ul style="list-style-type: none"><li>Remove - just include reference to CHS</li></ul> | <ul style="list-style-type: none"><li>Agree – reference CHS &amp; FHS in intro.</li></ul> | Review/drafting |

## 12. Compliance Monitoring

| Summary of issues raised  | Submitters' suggested remedies  | Drafting committee (DC) response   | Action Item                       |
|---|---|--|-----------------------------------|
| <p><b>10. Accountability Principle</b></p> <ul style="list-style-type: none"> <li>Essential services are subject to direct regulation.</li> <li>Enforcement actions available to ACMA = relatively weak</li> <li>Code drafting is not clear in places and can be subjective.</li> <li>TCP code doesn't address consequences of not fulfilling obligations or ensuring telcos understand the obligations.</li> </ul> | <ul style="list-style-type: none"> <li>Clarity in drafting consumer protection rules is needed to assist industry understand their obligations and take appropriate measures.</li> <li>Obligations in the consumer protection rules need to be assessable so that appropriate compliance action can be undertaken.</li> <li>Penalties for breaches of consumer protection rules need to be stronger and sufficient to provide incentive for industry to comply.</li> <li>Regulation, whether co-regulation or direct, should include provisions that require telcos to develop performance reporting systems to demonstrate code compliance, which are monitored and reviewed at an executive or board level.</li> <li>Telcos should also publish the key performance indicators they use to measure compliance, including reporting systems and methodology, to demonstrate accountability.</li> </ul> | <ul style="list-style-type: none"> <li>DC is working to restructure code to take account of SOE, with metrics etc. Metrics must be meaningful and comparable - challenging. It is taking time to work through.</li> </ul>  | <p>Review/Drafting – Metrics.</p> |
| <p><b>ACMA enforcement powers are limited.</b></p> <ul style="list-style-type: none"> <li>Code compliance is 'largely premised on industry goodwill'</li> </ul>   | <ul style="list-style-type: none"> <li>Provide ACMA stronger enforcement powers and impose more significant penalties. The government should increase fundings for ACMA to investigate and act in a timely manner when a provider breaches the code.</li> </ul>   | <ul style="list-style-type: none"> <li>Largely out of scope- and enforcement issues area subject of separate discussion. But the TCP Code is compulsory, not dependent on 'goodwill'. ACMA does have powers. And telcos do act when given a formal warning.</li> </ul> | <p>Out of scope</p>               |

## 12. Compliance Monitoring

| Summary of issues raised  | Submitters' suggested remedies   | Drafting committee (DC) response   | Action Item               |
|---|--|--|---------------------------|
| <p><b>CommCom powers</b></p> <ul style="list-style-type: none"> <li>Commcom does not have the adequate power of resource to independently verify there is industry in all aspects and therefore is heavily reliant on information being truthful and accurate.</li> </ul> | <ul style="list-style-type: none"> <li>Material increase in Commcom's resourcing. Expand powers to allow for independent external audits.</li> </ul> | <p>As an independent body, CommCom does its own assessment of CSP compliance which uses information received from the attestations (which use different questionnaires each year to test compliance) to then conduct audits of CSP customer-facing collateral (e.g. website content; training documentation (requested), etc). The process includes CommCom providing feedback to and assisting CSPs to ensure they are compliant with the areas identified in the questionnaire. It provides the opportunity for CSPs to address areas in which they are not fully meeting their requirements under the Code (within set timeframes). Note: the concept of an attestation of partial compliance arose from discussions with the ACMA and was designed to encourage providers to be forthcoming and more transparent about their level of compliance without fear of sanctions – thereby resulting in continual improvement.</p> <p>Where there is repeated non-compliance, CommCom has the ability to refer CSPs to the ACMA for enforcement action. It is important that enforcement action by the ACMA relating to non-compliance is conducted in timely manner so as to remain relevant to that year's attestation. Note that this has rarely been necessary because most instances of partial or non-compliance that are identified during the attestation process are rectified by way of constructive engagement between CommCom and the provider to address identified issues. There have, however, been instances where CSPs have failed to lodge attestations that have been</p> | <p>Reviewing/drafting</p> |

**12. Compliance Monitoring**

| Summary of issues raised  | Submitters' suggested remedies   | Drafting committee (DC) response   | Action Item      |
|---|--|--|------------------|
|   |  | <p>referred to the ACMA for enforcement. This issue, and efficiency and visibility of the TCP Code and CommCom generally, would be increased by the proposed CSP registration scheme. Finally, CommCom also consults with the ACMA, ACCAN and industry when considering key issues to be assessed in the annual compliance audit (attestation). CommCom's role and reporting of what it does /how it does it/what it finds /action requested is being investigated as part of this review.</p> |                  |
| <p><b>Independent auditing</b></p> <ul style="list-style-type: none"> <li>The independent assessment by an external auditor is only required once.</li> </ul>   | <ul style="list-style-type: none"> <li>Independent and external audits should be conducted on large well-established participants who have the resources and appropriate arrangements.<br/>Or</li> <li>At least biennial independent auditing, for all suppliers who are not small suppliers, with all to be subject to the same auditing requirements.</li> </ul> | <p>This would be extremely expensive and cost-benefit is not ensured. Auditors have no better way of knowing what's 'true' than CommCom. Costs are passed on to consumers. The focus should be to ensure telcos have appropriate controls and processes in place, training etc. + review mechanisms – which is being considered as part of the review.</p>   | <p>none</p>      |
| <p><b>Auditing via CommCom (attestation)</b></p> <ul style="list-style-type: none"> <li>The attestation process may become a high-cost regulatory box ticking exercise rather than achieving any improvements in the industry. The process is already a massive undertaking that is very time consuming, particularly for smaller CSPs who have limited resources. Cost of</li> </ul> | <ul style="list-style-type: none"> <li>Any reforms made to the attestation and other compliance activities, takes into consideration the disproportionate effects that such processes have on smaller CSPs.</li> </ul>   | <ul style="list-style-type: none"> <li>Noted.</li> <li>DC looking at CommCom's role/reporting as part of the review.</li> </ul>  | <p>Reviewing</p> |

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| Summary of issues raised  | Submitters' suggested remedies   | Drafting committee (DC) response  | Action Item                |
|---|--|---|----------------------------|
| <p>compliance is not appropriately balanced with the benefits to industry/consumers. This is due to the lack of reporting or activities undertaken by Commcom that demonstrates whether this onerous burden is having a positive impact, or identifying where industry needs more work.</p>   |  |   |                            |
| <p><b>Partially compliant issue</b></p> <ul style="list-style-type: none"> <li>There is no limit on the number of occasions on which a telco supplier can report being partially compliant.</li> </ul>  | <ul style="list-style-type: none"> <li>Repeated non-compliance relating to the same conduct or issue should be addressed in the enforcement framework.</li> </ul>  | <ul style="list-style-type: none"> <li>Where there's repeated non-compliance, Commcom refers to ACMA.</li> <li>DC to ensure this is clear in the TCP Code enforcement f/wk /review of the reporting /enforcement section.</li> </ul>  | <p>Reviewing/drafting</p>  |
| <p><b>Remedies</b></p> <ul style="list-style-type: none"> <li>Code doesn't provide clear remedies that consumers are entitled to in the event a telco doesn't comply with Code.</li> <li>For this reason, it is less likely our officers will look to the Code for guidance when making decisions about complaints, than to direct regulation that does specify remedies, such as the ACL.</li> </ul> | <ul style="list-style-type: none"> <li>Direct regulation in other essential service sectors specify remedies for non-compliance For example, the Part 4-2 of the National Consumer Credit Protection Act 2009 outlines the remedies available to affected persons if a credited provider breaches the Act</li> </ul> | <ul style="list-style-type: none"> <li>Unclear comment. The cited Act refers to powers for a COURT to grant remedies. The National Credit Code (Schedule 1 to the Act) also includes targeted remedies for particular breaches, such as Division 6 of Part 5, which deals with mortgagor's remedies (these include orders a court can make). This is similar to the ACL.</li> <li>Nonetheless, the DC looking to include specific remedies for some issues. For others, where there are numerous variables, the DC will look to give examples.</li> </ul> | <p>Reviewing /drafting</p> |