

Chair and Agency Head

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Mr Luke Coleman
Chief Executive Officer
Communications Alliance Ltd
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ACMA file reference ACMA2023/415-24

Dear Mr ~~Coleman~~ *Luke*

Re: Telecommunications Consumer Protections (TCP) Code Review – Responsible Selling

Thank you for Communication Alliance's (CA) submission on 18 October 2024 of revised drafts of Chapters 5 and 6 (responsible selling) and associated key definitions provided by CA, in response to my letter of 29 August 2024.

I note Authority members Samantha Yorke and Adam Suckling together with senior ACMA staff met with CA on 19 and 26 September 2024 to discuss our feedback on the May draft TCP Code material. Confirmation of our position on responsible selling practices was provided in a letter from Ms Yorke dated 3 October 2024.

The Authority considers that the revised drafting of Chapters 5 and 6 (and associated key definitions) sufficiently addresses the issues raised for it not to commence the necessary processes to introduce direct regulation at this time. However, this is subject to CA's agreement to address the following:

- Revising clause 5.2.4(h) to narrow the exclusion around shaping to only cover instances where the way shaping is implemented would affect the cost of data.
- Revising clause 5.2.6 to focus on the requirement that CSPs must ensure their advertising content as required under clauses 5.2.2 and 5.2.5 is appropriate for the advertising medium. The ACMA considers the wording in paragraphs (a) to (d) to be superfluous.
- Broadening the application of clause 6.1.5 to include "sales practices" in their entirety with monitoring and reviewing to be undertaken at arm's length from any persons who benefit from sales incentive schemes or the outcomes of any monitoring and review functions.

Subject to these changes being made, the ACMA is comfortable with CA beginning wider consultation on these revised drafts around responsible selling protections when it sees fit to do so. This may be ahead of providing updated drafts of the remaining chapters to the Authority for our review prior to broader public consultation on the draft Code consistent with my letter of 29 August 2024. We would appreciate confirmation of the date the remaining components of the redrafted Code will be submitted to the Authority.

As previously advised, the Authority's final decision on the adequacy of the Code will be made in consideration of the version lodged for registration. This will allow us to properly understand and assess the revised consumer safeguards in their full context against the statutory requirements for registration. Should the ACMA's concerns not be adequately addressed, it remains open for it to pursue direct regulation to address any area of remaining concern.

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The contact officer for this matter is Ms Cathy Rainsford (General Manager, Consumer Division). Ms Rainsford can be contacted on (02) 6219 5500 or at cathy.rainsford@acma.gov.au.

Yours sincerely



Nerida O'Loughlin PSM

4 November 2024

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