

Chair and Agency Head

OFFICIAL

Mr Luke Coleman
Chief Executive Officer
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Via email: l.coleman@commsalliance.com.au

ACMA file reference: ACMA2023/415-32

Dear Mr ~~Coleman~~ ^{loke}

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

Thank you to Communications Alliance (CA) for providing an updated draft TCP Code on 5 December, as requested in my letter dated 29 August 2024.

The TCP Code is an important part of Australia's broader telecommunications consumer protection framework. Over the last few years, various aspects of the Code have been found to be inadequate and therefore moved into direct regulation through the Telecommunications (Consumer Complaints Handling) Industry Standard 2018, the recently made Telecommunications (Financial Hardship) Industry Standard 2024 and the soon to be made Telecommunications (Domestic Family and Sexual Violence Consumer Protection) Industry Standard 2025.

It is critical that remaining elements of the Code provide consumers with confidence that the industry will meet their expectations in regard to selling practices, account management and customer service and support.

The Authority has reviewed the draft TCP Code provided by CA and considers that the revisions sufficiently address the issues that it had raised in its earlier correspondence, such that it is now comfortable for the Code review process to progress to public consultation.

We expect CA to consult thoroughly with a wide range of stakeholders to obtain meaningful feedback on the entire draft TCP Code. We also consider that CA should seek specific feedback on the following matters through the public consultation on the draft Code:

- the proposed \$1,000 threshold for assessing the creditworthiness of current residential customers under cl 6.2.6(c)
- the benefit of customers being provided with notification about all CSP-initiated changes to their contract – including those that are beneficial or have a neutral impact or are required by other legal or regulatory obligations (as per exclusion clauses at cl 7.2.3 (a) and (b), and not limited to those that propose a detrimental change (cl 7.2.2))
- the new definition of 'Authorised estate representative' and proposed provisions at cl 4.5, to facilitate the management of the customer's account where the customer is deceased – noting that the ACMA is currently consulting on amendments to the Telecommunications Service Provider (Customer Identity Authentication) Determination 2022 that will include more flexible provisions for CSPs where a customer or Authorised representative has died
- the drafting on responsible selling practices in Chapters 5 and 6, noting that the ACCC and consumer advocacy groups have expressed concern that the earlier proposed changes, particularly around sales incentives, would not provide adequate protections for consumers.

In considering an industry code for registration, the ACMA is required to assess whether the provisions as drafted would deliver adequate community safeguards in dealing with a matter of significant relevance to the community – subparagraph 117(1)(d)(i) of the *Telecommunications Act 1997* (Tel Act).

We are also required under the Tel Act, amongst other matters, to assess the adequacy of the consultation process and again encourage CA to undertake wide and meaningful consultation with the full range of stakeholders on the draft TCP Code in its entirety.

For the avoidance of doubt, our comfort in CA moving to a public consultation process on this draft should not be taken as an indication that the Authority would assess the draft as meeting the relevant legislative criteria if it were submitted for registration. That is a decision which can only be made after the consultation and with the benefit of stakeholder feedback and an understanding of what CA did in response to that feedback.

We note the proposed consultation period spans the December to January holiday season and understand CA intends to have the consultation open from 17 December 2024 to 14 February 2025. Due to the traditionally high level of staff on annual leave over the holiday season we are concerned this timeframe will be inadequate to achieve a meaningful engagement through the consultation process. We therefore request that CA extend the consultation period to 28 February 2025.

The ACMA contact officer is Ms Tanya Farrell (acting 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



Nerida O'Loughlin PSM

16 December 2024