

28th February 2025

Re: TCP Code 2024 Review

The Regional, Rural and Remote Communications Coalition (**RRRCC**) appreciates the opportunity to submit to the Communications Alliance (**CA**) consultation on the Telecommunications Consumer Protections (**TCP**) Code Review 2024 (**draft TCP Code**).

RRRCC is a collective of 21 organisations committed to improving connectivity in regional, rural and remote (**RRR**) Australia. We advocate for ongoing enhancements in RRR telecommunications infrastructure, stronger consumer safeguards, improved quality of service standards, and greater digital inclusion.

Reliable telecommunications services are essential for individuals, communities, and businesses that live and work in RRR Australia. The effectiveness and quality of telecommunications consumer protections have a significant impact on the daily lives of RRR consumers. Consumers in RRR areas have experienced significant harm because of persistently inadequate consumer protection settings in a weak TCP Code.¹

Additionally, the shutdown of the 3G network underscores the urgent need for stronger regulatory safeguards to ensure all Australians have adequate consumer protections.² Given these concerns, the RRRCC remains unconvinced that the Australian Communications and Media Authority (**ACMA**) can be satisfied that the draft TCP Code provides for appropriate community safeguards to consumers, thereby failing to meet the necessary requirements for registration.³

The RRRCC remains concerned that the draft TCP Code does not protect consumers effectively, which aligns with the positions of the Australian Communications Consumer Action Network (**ACCAN**), the First Nations Digital Inclusion Advisory Group (**FNDIAG**), and the Regional Telecommunications Independent Review Committee (**RTIRC**).⁴

The RRRCC recommends:

- CA addresses the critical shortcoming identified in ACCAN's submission to the draft TCP Code in their engagement with the TCP Code.
- The Minister for Communications direct the ACMA to develop direct regulation for Section 6 of the TCP Code.

¹ ACCC, 'Telstra to pay \$50m penalty for unconscionable sales to Indigenous consumers' (Media Release, ACCC, 13 May 2021) <<https://www.accc.gov.au/media-release/telstra-to-pay-50m-penalty-for-unconscionable-sales-to-indigenous-consumers>>; ACCC, 'Optus in court for alleged unconscionable sales and debt collection' (Media Release, ACCC, 31 October 2024) <<https://www.accc.gov.au/media-release/optus-in-court-for-alleged-unconscionable-sales-and-debt-collection>>.

² Annika Burgess and Lauren Bohane, '3G network shutdown drives surge in telco service complaints', *ABC News* (online, 20 February 2025) <<https://www.abc.net.au/news/2025-02-20/telecommunications-complaints-3g-shutdown-optus-telstra/104959072>>.

³ *Telecommunications Act 1997 (Cth) s.117*.

⁴ Regional Telecommunications Independent Review Committee, '2024 Regional Telecommunications Review: Connecting communities, reaching every region' (Discussion Paper, 2024) 79.

These measures are crucial to ensuring that all Australians – particularly those in RRR communities – have access to fair and reliable telecommunications services.

Expanding the definition of ‘Consumer in vulnerable circumstances’

The RRRCC recommends broadening the definition of ‘Consumer in vulnerable circumstances’ to acknowledge the challenges faced by individuals not only in remote areas but also in inner regional, outer regional, remote, and very remote parts of Australia.⁵ Restricting the definition to remote areas may unintentionally exclude vulnerable consumers in regional and rural communities. The proposed changes (highlighted in **bold**) ensure a more inclusive and accurate definition:

Consumer in vulnerable circumstances

means a consumer who is experiencing circumstances that cause vulnerability, either permanently or temporarily, due to (but not limited to):

- a) financial hardship;
- b) DFV;
- c) living with identified needs (intellectual, mental, physical, sensory, neurological, or a learning disability);
- d) personal or household accident or illness (mental, physical, sensory, neurological);
- e) personal or family circumstances (e.g., bereavement, relationship breakdown, caring duties);
- f) natural disaster or crisis event (e.g., fire, flood, drought);
- g) age (very young or old);
- h) living in a ~~remote area~~ **inner regional, outer regional, remote, or very remote area**;
- i) experiencing homelessness;
- j) poor reading, writing, numerical, or digital skills;
- k) a first language other than English; or
- l) a culturally diverse background or heritage.

Note: Vulnerability can emerge, change or be resolved over time, as the consumer’s circumstances change. A consumer may experience vulnerability due to life events, sociodemographic characteristics, by possessing certain personal, cultural, or social characteristics or because of business practices and market conditions and may experience overlapping vulnerabilities.

The draft TCP Code fails to meet the expectations of RRR Australia and requires urgent reform

The current draft of the TCP Code does not adequately address the consumer protection needs of RRR consumers, nor materially address the systemic drivers of historic and ongoing consumer harm in RRR areas. Significant flaws remain in key areas, including:

- Section 6.1 – Responsible approach to selling.
- Section 6.2 – Credit Assessments.
- Section 9.2 – Fair Credit Management.

⁵ Australian Bureau of Statistics (ABS), ‘Remoteness Areas’ (Web Page, 21 March 2023) <<https://www.abs.gov.au/statistics/standards/australian-statistical-geography-standard-asgs-edition-3/jul2021-jun2026/remoteness-structure/remoteness-areas>>.

Misleading, irresponsible, and unconscionable sales practices have caused ongoing harm to communications consumers, disproportionately impacting RRR communities, who experience higher rates of vulnerability compared to urban populations. Given these risks, RRR consumers rightfully expect the TCP Code to establish strong, enforceable protections covering sales practices, credit assessments, and credit management. Weak TCP Code protections directly contribute not only to financial hardship among RRR communications consumers, but also to disruption of a service that is essential for RRR consumers. A major concern of the RRRCC is the vague and ambiguous language in the current draft TCP Code, which weakens the enforceability of the TCP Code. Without clear and binding provisions, telecommunications providers will be able to continue engaging in harmful practices while technically remaining compliant. Even with the proposed penalty and enforcement reforms currently before Parliament, the gaps in the draft TCP Code will leave consumers exposed to unfair treatment.⁶ The 2024 Regional Telecommunications Review has extensively documented the challenges faced by RRR consumers, particularly in relation to irresponsible sales practices and inadequate service standards. The 2024 Regional Telecommunications Review has made clear recommendations for improving the TCP Code, including:

- Ensuring that commission-based sales incentives do not undermine the fair treatment of vulnerable consumers.⁷
- Strengthening protections specifically for RRR consumers and other vulnerable populations.⁸

The revised TCP Code must align with these expectations and meet the ACMA's standards for Code registration under the *Telecommunications Act 1997* (Cth), which requires that the TCP Code provide appropriate community safeguards.

Furthermore, the 2024 Regional Telecommunications Review has endorsed the positions of ACCAN, the ACCC, and the FNDIAG, all of whom have emphasised that the TCP Code requires substantial improvements to ensure effective consumer protections.

The best way to achieve this is through strong, enforceable, and fit-for-purpose requirements for sales practices and credit assessments. These provisions must directly address the persistent harm experienced by RRR consumers, including historical mis-selling by Telstra and alleged unconscionable sales and debt collection practices by Optus.⁹

Without meaningful reform, RRR consumers will continue to face significant risks. The ACMA must take decisive action to ensure the TCP Code delivers the necessary protections for all Australians, particularly those in RRR communities. If the TCP Code cannot meet these higher standards, direct regulation by the ACMA should be considered to enforce these protections effectively.

The need for direct regulation by the ACMA to protect RRR consumers

Allowing the telecommunications industry to write obligations that suit its own interest has resulted in a draft TCP Code that fails to meet the expectations of RRR consumers and organisations in

⁶ Michelle Rowland, 'Government moves to legislate better protections for telco consumers' (Media Release, Minister for Communications, 12 February 2025) <<https://minister.infrastructure.gov.au/rowland/media-release/government-moves-legislate-better-protections-telco-consumers>>.

⁷ Regional Telecommunications Independent Review Committee, '2024 Regional Telecommunications Review: Connecting communities, reaching every region' (Discussion Paper, 2024) 79.

⁸ Ibid.

⁹ ACCC, 'Telstra to pay \$50m penalty for unconscionable sales to Indigenous consumers' (Media Release, ACCC, 13 May 2021) <<https://www.accc.gov.au/media-release/telstra-to-pay-50m-penalty-for-unconscionable-sales-to-indigenous-consumers>>; ACCC, 'Optus in court for alleged unconscionable sales and debt collection' (Media Release, ACCC, 31 October 2024) <<https://www.accc.gov.au/media-release/optus-in-court-for-alleged-unconscionable-sales-and-debt-collection>>.

ensuring adequate community safeguards, particularly in protecting vulnerable consumers and ensuring fair treatment. Compliance with inadequate protections in the draft TCP Code does little to address consumer harms. The 2024 Regional Telecommunications Review has emphasised that the:

TCP Code requires substantial improvements to protect consumers effectively [...] [and] if the TCP Code cannot achieve these higher standards, direct regulation by the ACMA should be considered to enforce these protections.¹⁰

Given the TCP Code’s ongoing inability to include appropriate consumer safeguards for RRR consumers and implement the 2024 Regional Telecommunications Review’s recommendations effectively, the RRRCC cannot see a case for the ACMA to register the Code.

Instead, the ACMA should move forward with establishing and enforcing direct regulation. This is essential to address persistent issues related to harmful sales practices and inadequate credit assessments that continue to impact RRR consumers.

Conclusion

The RRRCC considers that the current draft TCP Code fails to adequately protect RRR Australians. The draft’s ambiguous language and insufficient safeguards allow harmful sales practices, weak credit assessments, and other systemic issues to persist, disproportionately affecting consumers in RRR communities who face a range of vulnerabilities. To remedy these flaws, the RRRCC calls for immediate reform – including broadening the definition of vulnerability and addressing the specific risks faced by RRR communities – and recommends that the ACMA pursue direct regulation if the TCP Code cannot be strengthened to address the consumer protection needs of RRR consumers.

The RRRCC thanks the CA for the opportunity to comment on the draft TCP Code.



¹⁰ Regional Telecommunications Independent Review Committee, ‘2024 Regional Telecommunications Review: Connecting communities, reaching every region’ (Discussion Paper, 2024) 79.