

# Independent Adviser, TCP Code Review -

## Terms of Reference



The position of Independent Adviser (IA), Telecommunications Consumers Protections (TCP) Code Review, has been established to perform an area of work identified by the Communications Alliance (CA) Board and the CA Industry Consumer Advisory Group Reference Panel (ICAG).

The IA is to actively monitor and provide advice on the TCP Code revision process to verify whether it is fair, reasonable and appropriately transparent, in line with the [specific terms](#) described below.

In carrying out the specific terms, the IA is to observe Part 6 of the *Telecommunications Act 1997* and the ACMA's "[Guide to Developing Telecommunications Codes for registration](#)".

These Terms of Reference (TOR) should be read in conjunction with the TOR for the TCP Code Drafting Committee (Drafting Committee) and TCP Code Independent Adviser (IA) (see [related committees/roles](#)).

### Specific terms

The IA will:

1. monitor and provide advice on the TCP Code revision process to verify whether it is fair, reasonable and appropriately transparent.
2. raise any concerns or issues directly with the Communications Alliance Board (as well as advising the Review Committee and CA management of any concerns, suggestions or advice). A standing item will be placed on each CA Board meeting agenda during the period of the engagement, to enable the IA to engage with the Board directly as she/he deems appropriate.
3. be available to meet with and to receive questions directly from and discuss issues of concern directly with, ACMA staff and Authority members.
4. be empowered, at his or her discretion, to liaise with consumer groups or other stakeholders.
5. be empowered, at his or her discretion, to attend Drafting Committee meetings.
6. provide a report and relevant observations to the ACMA when the draft TCP Code is submitted to the ACMA for consideration for registration. The report will include the IA's views on the adequacy of the consultation process, including the manner in which the final drafting addresses key issues identified during the process.

Monitoring and assessment will take place through monthly online or in-person meetings with the Review Committee, as well as via direct communication with individual stakeholders.

Written reports will be provided by CA management to all participants ahead of the monthly meetings as required. Stage summaries will also be posted online periodically.

The IA may raise, or facilitate questions on, process issues or concerns before, during or after meetings.

The IA will be supported by CA management in this role.

### **Primary deliverables**

- Regular reports/feedback (verbal or written) to the CA Board on the fairness, reasonableness and transparency of TCP Code revision process.
- Advice to CA management and the Board about concerns about the process and suggestions as to how they might be reasonably addressed/ improvements to the process.
- Direct engagement with stakeholders as required to facilitate a fair and reasonable process.
- A written report to the ACMA at the time that the Code is submitted to the ACMA for consideration for registration, to include comments about the adequacy of the consultation process, including the manner in which the final drafting addresses key issues identified during the process.

### **Requirements for the role**

The IA will be a person with deep experience of the Australian telecommunications industry, the concerns and issues of importance to Australian telecommunications consumers and the relevant regulatory framework.

The IA will be a person demonstrably independent from the telecommunications industry.

### **Appointment and governance**

The IA will be appointed by, and will report to, the Communications Alliance Board of Directors.

### **Resources and Administration**

Administrative support will be provided by Communications Alliance, managed by the Communications Alliance Project Manager.

### **Related committees/roles**

WC84: TCP Code Working Committee (the 'Review Committee'). TCP Code Drafting Committee. (Terms of reference for both are available on the TCP Code [review page](#) on the CA website)

## TCP Code Review and Revision Process

### Stage 1: Information-gathering

1.1 The first stage in the 2024 review and revision process includes early pre-code-drafting stage information-gathering exercises that will set the foundations for the revision:

- (a) a public discussion paper, designed to help identify stakeholders' key concerns and priorities, and
- (b) one-on-one stakeholder meetings that will provide a more informal opportunity to share and properly understand the issues raised in submissions.

At each stakeholder meeting, one or two members of the Drafting Committee will meet one or two representatives from the stakeholder organisation, with support provided by the CA Project Manager.

### Stage 2: Iterative drafting

1.2 Once the initial information-gathering is complete, Code drafting will begin. The Drafting Committee will use information gathered through the first stages of the review to inform drafting.

1.3 Code drafting will progress through an iterative drafting process with stakeholders regularly engaged to ensure that their individual issues and concerns are understood. Engagement will take place via a number of mechanisms, including:

- Review Committee meetings (monthly or as required),
- deep engagement and liaison with an Independent Adviser (IA)
- direct, one-on-one engagement between the Drafting Committee and representatives of the individual stakeholder organisation on issues of direct interest to that stakeholder,
- report summaries made available online,
- opportunities for direct engagement with the IA.

### Stage 3: Formal consultation on a new Code

1.4 The final stage will involve the public release of a 'revised draft Code' which will be subject to the formal consultation processes required of the Code development process, including a mandatory public comment period.

## Transparency and independence of process

Transparency of process and independence of process at each stage will be ensured through appropriate documentation and reporting mechanisms.

- submissions received in response to the discussion paper will be posted on the CA website (unless the respondent requests otherwise), along with a summary of key issues identified through the one-on-ones,
- details of stakeholder meetings/input received at each additional stage will be documented, with stage summary information published on the CA website,
- drafting records will clearly document how key identified issues have been managed (i.e. has the issue been addressed within the Code revision? If not, why not?),
- an Independent Adviser (IA), appointed by and reporting to the Communications Alliance Board of Directors, will actively monitor and advise on the revision process to verify it is fair and reasonably and appropriately transparent. This will primarily be managed through monthly meetings with the Review Committee, with additional engagement and independent review at the IA's discretion, and
- the revision process will be a standing agenda item at each meeting of the Communications Alliance Board of Directors for the duration of the project, to facilitate regular updates of the Board by the IA and the opportunity to surface and address any issues of concern.

There might also be a role for a (different) independent party to provide neutral and considered advice about whether the Code clauses are clear and fit for purpose, and/or to provide expert advice on metrics, analytics and reporting issues. The benefit of these options will be assessed once the review process is further progressed.