

TCP Code Drafting Committee -

Terms of Reference



The TCP Code Drafting Committee ('Drafting Committee) has been established to perform an area of work identified by the Communications Alliance Industry Consumer Advisory Group Reference Panel (ICAG).

The Drafting Committee is to take a lead role in managing the review and revision of [C628:2019 Telecommunications Consumer Protection Codes, Incorporating Variation NO. 1/2022](#) to ensure that it is up-to-date and provides fit-for-purpose consumer safeguards.

This work shall be undertaken in line with the [specific terms](#) described below, following the review and revision process outlined [here](#).

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

- the sections of the industry that are to be covered by the Code, as per s.110 of the Act; and
- the telecommunications activities to be covered by the Code, as per s.109 of the Act.

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

Specific terms

The Drafting Committee will:

1. be responsible for actively managing and constructively engaging with other stakeholders in the entire TCP Code revision and review process (summarised [here](#)). This includes, but is not limited to:
 - a) reviewing, considering and actively seeking to understand issues raised by stakeholders in their responses to the discussion paper (review stage 1),
 - b) participating as required in constructive one-on-one discussions with stakeholders (review stage 1),
 - c) exploring how to best address issues raised through the consultation process including, as part of the iterative drafting process, participating in (as required) and providing input into, direct, one-on-one discussions with representatives of the individual stakeholder organisations

- on issues of direct interest to that stakeholder, to exploring how issues might be effectively and efficiently addressed in the Code (stage 2),
- d) preparing material for, and participating in, TCP Code Review Committee meetings, and
 - e) engaging with the Independent Adviser, as and when required.
2. explore strengthening protections for vulnerable consumers, including (but not limited to):
 - a) including specific provisions to provide protections for people affected by domestic and family violence,
 - b) exploring how best to address the ACMA's expectations as set out in their [Statement of Expectations \(SOE\)](#) for telcos dealing with vulnerable consumers.
 3. consider the appropriateness and effectiveness of the Code's structure, reporting and monitoring arrangements. This includes, but is not limited to:
 - a) reviewing the effectiveness and appropriateness of mandatory rules versus clearly articulated consumer outcomes, paired with appropriate compliance program/reporting measures, and
 - b) considering the effectiveness of current Code compliance and reporting obligations, including their fit in the wider regulatory environment.
 4. consider the need for other revised or new content and definitions.
 5. consider where content can be removed (e.g. where it is out-of-date or duplicative - in line with the legislative and ACMA-defined requirements and principles for Code development). This will include considering the ongoing appropriateness of provisions relating to the collection and storage of customer data.
 6. consider whether the Code's purpose and scope is adequately described and communicated to relevant stakeholders.
 7. take into account regulatory and legislative changes currently underway.
 8. correct any identified out-of-date references and typographical errors.

Primary deliverables

- a revised version of *C628:2019 Telecommunications Consumer Protection Code*.
- written reports for the Review Committee (and other audiences) as and when required.
- summary stage reports.
- records of stakeholder meetings and a record of comments received during:
 - the information-gathering stage,
 - the iterative drafting stage, and
 - the public consultation process.
- drafting records that clearly document how key issues have been managed (i.e. has the issue been addressed within the Code revision? If not, why not?).

Constitution

This will be an industry-only working committee, with members to be drawn from ICAG. Chairing responsibilities will be shared between members, based on specific topics of expertise or interest.

Resources and Administration

Administrative support will be undertaken or managed by the Communications Alliance Committee Project Manager.

Related committees/roles

WC84: TCP Code Working Committee (also referred to as the 'Review Committee').

TCP Code Independent Adviser.

(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.