

Comments on the 2024 draft TCP Code (C628: 2025).

The Introduction section uses the term “above the requirements set out in economy-wide or telecommunications-specific legislation and regulation”, which avoids answering whether the existence of such requirements means that they are actually enforced in practice as a result of any individuals identifying area(s) where requirements are not being met, e.g. letting the ACCC know of misleading claims on a CSP’s web site or letting the ACMA know that a CSP’s web site represents requirements of a long-outdated Industry Code as current information.

Any requirements of the TCP Code that an individual can see are not being met by a CSP and not corrected promptly by the individual raising this with the CSP need to be able to be enforced promptly via contact with the TIO or the ACMA, not having both the TIO and the ACMA stating that they will take no action after long delays in responding.

The power imbalance is evident when a CSP can take several months (ie not “timely”) to properly correct its website’s claims after having them repeatedly queried by a customer and the CSP does not have to acknowledge such to a regulator or the customer and suffers no sanctions. Specific time-frames for correcting the lack of availability of “information provided or made available to consumers is clear, accurate, free of material omissions, relevant, current, readily available, and, in cases where information is provided, timely” might help, but need enforcement.

The power imbalance is also evident when a CSP’s web site puts all the responsibility for a service feature working on the customer’s choice of equipment or service plan, and none of the responsibility on the CSP’s network, and again suffering no sanctions for failing to share responsibility of a service feature not working as advertised or failing to adequately describe their services (e.g. having material omissions in their service descriptions, such as failing to plainly state “your 5G mobile service will require 4G network access for voice calls until both the handset and network support 5G Stand Alone with Voice Over New Radio”).

There was in the 2019 version of the TCP Code “Our Key Commitments to Consumers”, which is missing from the 2024 draft. My personal view was that the commitments were observed in their breach rather than their compliance. The absence of such commitments in the new code is more than disappointing, more likely an admission of failure to achieve such commitments. Gone is also the commitment to continuous improvement by CSP’s.

The new requirements of company-wide staff training are welcome. I have previously dealt with a CSP’s complaints officer who had not read the TCP Code.

Missing also is any means of reducing the back-and-forth of customers going between equipment suppliers and CSP’s over problems with service features that each tell the customer to raise the problem with the other.

Missing in action on the issues I have faced with TCP Code compliance have been Communications Compliance. If they only enforce parts of the TCP Code and not where there is a demonstrated failure to meet requirements such as “Consumers can easily access clear, comparable, accurate and inclusive, plain language information about a CSP’s products and services” then this needs to be carefully qualified when mentioning Communications Compliance’s role.

Also worth spelling out is the responsibility of the CSP’s to clarify the concepts behind their products and services (e.g. limitations of network coverage, how a customer using a CSP’s International Roaming service makes calls to numbers including emergency numbers in the country they are using a roaming service in). I would even go as far as saying that any CSP that offers international roaming services should explain the concept of S8HR and settings like “assisted dialling” and “default home country” in Android and any equivalents in IOS that affect the behaviour of calling and Calling Number Display when roaming.

As an example, if I was roaming in Japan, I would expect to be able to dial 119 from the handset using roaming to get an ambulance in an emergency, rather than needing to remove or disable the SIM card or find a public phone.

In general, the TCP Code needs to actually protect consumers from poorly defined and/or implemented products and services, provide real remedies that include time-frames for resolution, even if it involves other parties like handset suppliers, roaming partners, the ACCC and the OAIC.

Stating that a problem is a “customer service issue” and therefore not subject to any enforcement of resolution does not help the customer and damages the reputation of the supplier and the regulator.