

22 March 2024

Authority Secretariat
Australian Communications and Media Authority
PO Box 78
Belconnen ACT 2616

Sent by email to haveyoursay@acma.gov.au

Dear ACMA,

TIO submission on the ACMA Compliance Priorities 2024-25

Thank you for the opportunity to share our views on potential compliance areas for the ACMA to focus on in the 2024-2025 financial year.

We thank the ACMA for its compliance and enforcement work over the previous financial year, which has seen the introduction of the *Telecommunications (Financial Hardship) Industry Standard 2024*, the investigation of multiple telco compliance issues referred by the TIO, and significant work combatting scams and other areas of potential consumer harm.

Based on our complaints handling experience and investigation work over the past year, we offer the following priority areas for the ACMA's consideration.

1. Telco compliance with the *Telecommunications (Consumer Complaints Handling) Industry Standard 2018*

1.1. Why we recommend this as a priority for the ACMA

Over the past year, we have identified several areas where telco providers have lapsed in their compliance with the *Telecommunications (Consumer Complaints Handling) Industry Standard 2018*.

As this Standard includes key consumer safeguards – including rules around the accessibility of providers, their complaints handling processes, and their requirements to tell dissatisfied consumers about their options for escalation or external dispute resolution – we are keen to see this Standard is being applied correctly and consistently across all providers.

For examples of non-compliant conduct, our June 2023 Systemic Report highlighted we had investigated a number of systemic issues involving inaccessible customer service, unclear or inconsistent communication, and inflexible identify verification practices.¹ As outlined in the report, provider accessibility was the third most common type of systemic issue investigated by the TIO between 1 July 2020 and 30 April 2023. Further, “No or delayed action by a provider” continues to be the most common issue in TIO complaints during 2022/23 for the third year in a row.²

Additionally, in 2023, the TIO surveyed consumers to ask whether providers were advising them of their options for external dispute resolution, as required under the Complaint Handling Standard. Our survey results found that less than 25% of consumers could recall being informed about their external dispute resolution options. We provided this information to our members so that they could review their own internal processes. We are continuing to investigate this further in 2024.

1.2. Potential conduct to consider

If the ACMA adopts this priority, it could consider monitoring for the following issues:

- Telco providers meeting their obligations for publishing contact details and their Complaints Handling processes on their websites
- Telco providers acknowledging complaints and responding to consumers within the appropriate timeframes, and
- Telco providers telling consumers about their options for external dispute resolution with our office.

2. Protecting telco consumers who are experiencing financial hardship

2.1. Why this should remain a priority for the ACMA

Complaints about financial hardship are a high-priority issue for our office, and responses to financial hardship will continue to be a prominent feature of our policy work and systemic investigations into FY25 and beyond. In April 2023, we published a report highlighting that, with cost of living and interest rates on the rise, we continue to see complaints from consumers who struggle to pay for essential telecommunications services.³

The ACMA has taken great steps towards assisting consumers experiencing financial hardship. With the introduction of the *Telecommunications (Financial Hardship) Industry Standard 2024* in late March 2024, we recommend this should remain a priority into the next financial year as telcos adopt and apply the new rules. We can assist with compliance with the Standard by monitoring our complaints for contraventions of the new rules, and by corresponding with the ACMA about potential compliance issues. We will also continue to report on financial hardship complaints through our quarterly and annual reports.

¹ TIO, [A time for change - Three years of systemic investigations in review](#) (June 2023)

² TIO, [Annual Report 2022-23](#)

³ TIO, [Thematic review of our financial hardship complaint 2021-2023](#) (April 2023)

2.2. Potential conduct to consider

If the ACMA chooses to keep this as a priority, it could consider monitoring for the following issues that may arise over the coming year:

- Telcos not proactively identifying consumers who may require assistance (this is vital, as the ACMA's research found low levels of community awareness about available assistance in the telco sector)⁴
- Telcos disconnecting consumers experiencing financial hardship without following the appropriate procedures
- Telcos not offering the appropriate number of options for financial hardship assistance, and
- Telcos not updating their financial hardship policies (soon to be payment assistance policies) to align with the new rules.

3. Supporting telco consumers experiencing domestic and family violence

3.1. Why this should remain a priority for the ACMA

In the 2023-2024 financial year, we continued to receive complaints from consumers who are experiencing family violence and who say their provider did not respond to their situation appropriately. In their complaints, consumers described a range of issues where their family violence situation created unique problems that required a tailored approach that was not offered by their provider. These included billing disputes, account issues, financial hardship, technical faults, and privacy breaches. Whether or not family violence was a key factor in their complaint, the common issue consumers faced was that their issue or complaint was not prioritised by their provider, or the right type of help was not offered.

To help reduce instances of telco issues relating to family violence, we encourage the ACMA to maintain this as one of its key compliance priorities for FY25. Additionally, we encourage the ACMA to consider expanding the protections granted to consumers experiencing family violence, such as considering moving these protections from a non-mandatory Guideline to direct regulation.

3.2. Potential conduct to consider

If the ACMA adopts this priority, it could consider monitoring for the following issues:

- Providers' compliance with Communications Alliance's *Assisting Consumers Affected by Domestic and Family Violence Industry Guideline*
- Providers offering appropriate financial hardship assistance that takes the consumer's family violence situation into account
- Where a provider does have a specialised team to deal with family violence, whether the provider has referred the consumer to the appropriate team for help, and

⁴ ACMA, [Financial hardship in the telco sector: Keeping the customer connected](#) (May 2023)

- Where a provider does have processes in place to help with the unique issues raised by consumers experiencing family violence, whether they consistently follow their own processes.

4. Poor sales practices to vulnerable consumers

4.1. Why we recommend this as a priority for the ACMA

Poor sales practices – including misrepresentations of price, provider name, or other product details – are an enduring priority for our office. Every year, we see complaints involving poor sales, particularly around the mis-selling of mobile services, devices and accessories. Complaints about misleading conduct increased by 16.3% between the FY22 and FY23.⁵ Our complaints data for Q2 FY24 outlined an increase of 9.8% in complaints about misleading conduct when making a contract compared to Q1 FY24, with most of these complaints about mobile services. These practices erode trust and confidence in the telco market, and addressing this behaviour would benefit both consumers and telco providers.

Poor sales practices also make up a substantial portion of our systemic investigation work. Between 1 July 2020 to 30 April 2023, the most common category of systemic issue investigated by the TIO was poor sales practices (including misleading sales conduct).⁶ Our systemic investigations found that telco mis-selling can lead to severe consequences for consumers experiencing vulnerabilities. We have seen cases where vulnerable consumers are sold hundreds, or sometimes thousands, of dollars of products and services that they do not need and could not afford. We have also seen examples of vulnerable consumers who have contacted their provider for tech support, and instead have been told they need to purchase expensive devices or upgrade their plans.

We regularly work with telcos to improve their sales practices, and we refer examples of poor sales conduct to the ACMA and the ACCC. We are pleased to see recent enforcement activities undertaken by the ACMA in response to TIO referrals about sales practices and customer transfers, including non-compliance with obligations around record-keeping, staff training, and obtaining consent.⁷ We will continue investigating and potentially referring these matters into FY25 and beyond, and we look forward to working with the ACMA on ways to improve sales practices across the industry.

4.2. Potential conduct to consider

If the ACMA adopts this priority, it could consider monitoring for the following issues:

- The responsible sale of mobile services to consumers affected by the closure of the 3G network. A number of vulnerable consumers will be required to upgrade their mobile devices as these networks shut down, and it is important that telco providers sell them products they can afford and that are suitable for their needs.

⁵ TIO, [Annual Report 2022-2023](#), page 110

⁶ TIO, [A time for change - Three years of systemic investigations in review](#) (June 2023)

⁷ ACMA, [Investigations into telco providers](#)

- Telco compliance with the TCP Code rules around responsible approaches to selling, including the training of sales staff to respond appropriately to consumers experiencing vulnerability, and
- Telco compliance with the record retention rules around the sale of telco services.

5. Combatting SMS scams

5.1. Why this should remain a priority for the ACMA

SMS scams and broader telco-related scams remain a significant problem for Australian consumers. While the TIO does not directly handle complaints about the conduct of scammers, we may handle complaints about the conduct of telco providers in relation to those scams. For example, we may handle complaints where telcos have failed to apply the account security procedures outlined in the *Telecommunications Service Provider (Customer Identity Authentication) Determination 2022*, or where the provider has not complied with the *Reducing Scam Calls and Scam SMS Code*.

Given the strong intersection between scams and telco services, and the complaints we occasionally see arising from these scams, we support the ACMA's ongoing focus on this as a compliance priority area in FY25.

We look forward to the outcome of this consultation.

Yours sincerely,



Cynthia Gebert
Telecommunications Industry Ombudsman