Telecommunications Industry Ombudsman

TIO submission to Communications Alliance –

Telecommunications Consumer Protections Code Review Stage 3: Formal Consultation on a New Code

February 2025

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Introduction

Thank you for the opportunity to comment on the Telecommunications Consumer Protections Code (**TCP Code**) Review.

The Telecommunications Industry Ombudsman (**TIO**) has provided feedback on the development of the Code to the Drafting Committee throughout 2024. We are pleased that Communications Alliance and the Drafting Committee have taken steps to strengthen the Code.

While improvements have been made when compared to the current TCP Code, the draft TCP Code still falls short in meeting community expectations for an essential services sector. Much of the TIO's feedback provided in our June 2023 Submission[1] and through the Review Committee has not been adopted.

In our view, the current draft Code is not suitable for registration because it does not provide adequate community safeguards. If the Code remains unsuitable for registration following this public consultation process, the Australian Communications and Media Authority (**ACMA**) should commence work urgently on an Industry Standard to replace it, noting that considerable stakeholder feedback has already been provided as part of the current Review process.

In February 2025, the Government introduced the Telecommunications Amendment (Enhancing Consumer Safeguards) Bill 2025 into Parliament. If passed, this Bill will make Industry Codes, including the TCP Code, directly enforceable. For the ACMA to be able to effectively enforce telco consumer protections, the drafting of the TCP Code will need to place clear, enforceable, obligations on telcos. This will support telco compliance activities and consistency across the sector, and ensure that consumers receive a minimum standard of protections fitting for an essential service.

The Code as currently drafted has too many guidance notes, provides too much discretion for telcos in the way they apply the Code, and often does not impose clear obligations on the telco sector.

A strong telco consumer protection framework will benefit consumers and the telco sector by supporting trust and reducing complaints to the TIO. Our submission provides detailed feedback on the proposed draft Code which we believe will lift the standard of consumer protections in line with community expectations, particularly in the areas of:

- Sales practices
- Credit assessments
- Billing
- Credit Management.

In addition to the feedback contained in the body of this submission, we provide further commentary in **Appendix A.** Our observations and feedback are based on our experience of performing our unique role as the external dispute resolution scheme for Australia's telecommunications industry.

Finally, we are concerned about the time it has taken to develop the draft Code. While we acknowledge that the delay may be outside of the control of Communications Alliance and the

[1] TIO submission to Communications Alliance consultation on the 2024 Telecommunications Consumer Protections Code Review, June 2023.

Drafting Committee, it means that key consumer protections identified by the ACMA in mid-2023 (such as protections around payment methods) are still not in place.[2]

We thank Communications Alliance and the Drafting Committee for the work it has done to date on the Code and for considering the feedback in this submission.

1 Sales practices: The Code requires stronger safeguards against inappropriate sales

1.1. Poor sales practices remain a vital area of concern in the telco industry

Poor sales practices in the telco sector have significant impacts on the most vulnerable cohorts of consumers, and erode trust and confidence in the sector more generally. We continue to receive complaints from consumers who are impacted by mis-selling and unconscionable conduct in the sale of telco products and services.

Systemic Investigation Case Study: We investigated concerning sales conduct in Dance Dial's stores, and via call centres and retail sales partners*

Last year, we investigated a series of complaints we had received about concerning sales conduct from customers of Dance Dial. Affected consumers had been sold telco products in Dance Dial stores, and via its call centres and retail partners. We were concerned to see several complaints where it appeared vulnerable consumers had been sold products inappropriately, or consumers had agreed to sign up for products based on false or misleading statements by Dance Dial.

Other consumers appeared to have been sold products even though they could not or should not have passed a credit assessment for the products they were sold. We were particularly concerned about complaints where it appeared Dance Dial's sales representatives had put significant pressure on vulnerable consumers to purchase products. These consumers were sold services and devices they did not want, did not need, or could not afford.

As part of our investigation, Dance Dial reviewed the complaints we identified. It told us it did not think there was a systemic issue with its sales practices based on the information available to it, but it did acknowledge inappropriate sales had occurred in a small number of complaints. In most of the complaints we referred, Dance Dial confirmed it had offered the consumer a favourable remedy (such as refunding fees or cancelling contracts). Where it acknowledged sales were inappropriate, Dance Dial provided appropriate remedies for the affected consumers and took disciplinary action against sales agents where appropriate.

Dance Dial also agreed to make several improvements to its sales processes to help prevent inappropriate sales in future. These included additional training for sales agents, system

[2] See the ACMA's July 2023 position paper, 'What consumers want – Consumer expectations for telecommunications safeguards'.

improvements to reduce staff errors, and clearer expectations for Dance Dial's sales partners about the need for appropriate sales practices.

While we have now closed our investigation, we remain concerned about inappropriate sales practices across the industry.

**The name of the telco that was the subject of this investigation has been changed.*

Case Study 1: Dance Dial signed Norma up for a device she did not want or need*

Norma contacted our office after Dance Dial signed her up for a device repayment contract she did not want or need. She explained she had called Dance Dial to enquire about upgrading her mobile phone. After she discussed options for a new mobile phone and agreed to purchase one, the sales representative offered to add a new tablet device to her order as well, so that it would be bundled with her mobile service and new mobile phone.

Norma was not interested in adding the tablet device to her plan, so she rejected Dance Dial's offer. The sales representative then became pushy, and although Norma repeated that she did not want the extra tablet device, they processed an order for it anyway. Norma is an age pensioner, and was worried she would not be able to afford the charges for the tablet, so she complained to our office.

After we referred Norma's complaint to Dance Dial's dispute resolution area, it agreed it should not have processed the order for the tablet. Norma returned the tablet she did not want, and Dance Dial agreed to waive all associated charges.

**Names of all parties have been changed.*

In this environment, it is critical that the Code provides robust and targeted protections that complement the more general protections contained in the *Australian Consumer Law*. Appropriate safeguards would give consumers affected by mis-selling easy access to appropriate remedies and provide the impetus for the industry to lift the standard of its practices.

We acknowledge Communications Alliance's efforts to strengthen the current Code's requirements for pre-sale information given to consumers (in Chapter 5) and to provide safeguards against inappropriate sales practices (in Chapter 6). We welcome the re-drafted direct obligation for telcos to sell telecommunications goods and services responsibly in clause 6.1.1. We also support the intent of clauses 6.1.11, 6.1.12, and 6.1.14, which outline remedies telcos are required to provide consumers in instances of mis-selling, where a consumer relies on incorrect information from the telco, and where a consumer is affected by a vulnerability that affects their decision-making at the time of the sale.

However, we are concerned that as currently drafted, Chapter 6 will not appropriately lift the minimum standard of telco behaviour in this vital area of consumer protection regulation. To address poor sales practices and mis-selling, the Code must contain clear obligations outlining the minimum standard of behaviour with which telcos must comply. The current drafting risks

inconsistent interpretation across the telco sector and may hinder the ACMA's ability to take enforcement action.

As noted in our feedback through the Review Committee process, we are concerned about the areas of the Code that rely on guidance notes where there should be clear, binding obligations on telcos. In general, if a provision requires a guidance note for its obligations to be understood, it should be re-drafted so it can stand on its own. Guidance notes should only be used sparingly, if at all.

1.2. The Code should contain a clear definition for mis-selling

The current draft Code does not contain a definition for 'mis-selling'. The Code should contain a clear definition for mis-selling that takes account of the elements of inappropriate or unconscionable sales practices. The definition should cover sales conduct that is deliberate, reckless or negligent. It should also cover sales involving implicit and explicit misrepresentation, and circumstances where a consumer is sold products that are unsuitable for their needs or circumstances (where the telco is or should have been aware of these). This includes circumstances where sales representatives take advantage of a consumer's vulnerability to sell them unsuitable products.

1.3. The Code should specify what remedies, at a minimum, must be offered to consumers who are victims of mis-selling practices

While it is important for telcos to offer a range of remedies to meet the needs of their consumers, the Code should provide a minimum set of prescribed remedies that *must* be offered to the consumer where mis-selling occurs.

The Code as currently drafted provides too much discretion to telcos when offering remedies to consumers following mis-selling. This risks telcos only offering remedies that do not meet the needs of their customers, eroding trust and confidence and increasing the risk of complaints to the TIO.

Clause 6.1.11 should prescribe set remedies telcos are obliged to offer (at a minimum) in identified cases of mis-selling. The required remedies could include those currently contained in the note underneath clause 6.1.11. Telcos should always be required to provide the option for consumers to cancel contracts without penalty and for them to return any associated devices and receive a refund.

1.4. The Code should provide stronger protections and remedies where mobile coverage does not meet a consumer's requirements

Proposed clause 6.1.13 is intended to address circumstances where a consumer has signed up for a mobile service and later discovers their telco's network does not provide coverage that meets their requirements. It says that where a customer has purchased a mobile service and 'actual mobile network coverage does not meet the customer's coverage requirements (see cl. 5.3.5(k))', a carriage service provider (**CSP**) must 'allow the customer to exit their service contract with no early exit fees.'

While we welcome the intent of this clause, it is unlikely to effectively address a significant cause of disputes between consumers and telcos, where a telco's mobile coverage does not meet a consumer's expectations.

This is because:

- The clause does not specify what it means for a telco's coverage to 'not meet the customer's coverage requirements'. By referring to clause 5.3.5(k) it appears that clause 6.1.13 applies where coverage does not match telco coverage maps, but this is unclear.

- The Code does not address how a telco must treat situations where a consumer cancels their mobile service under clause 6.1.13, but the service is linked to a device contract. In our experience, this is often the most contentious issue in complaints where a mobile service's coverage does not meet a consumer's expectations.

Most major telcos no longer charge service termination fees for cancelling mobile contracts. However, consumers will often have their mobile service linked to a device repayment contract with a minimum term of 24 or 36 months. Generally, where the consumer cancels the mobile service early, their telco will require them to pay out any remaining device charges directly as a lump sum. This may be unfair in circumstances where the consumer is only cancelling because the telco cannot provide coverage as agreed, at the locations where the consumer needs to use their service.

Where a consumer cancels their mobile service because of a confirmed problem with the service, we think a fair approach would be for the telco to allow the consumer to continue paying for a linked device under their originally agreed monthly payment schedule. The consumer would then be able to use their device with a different telco, while continuing to pay the original telco for the device according to their original device repayment schedule.

1.5. The Code must require telcos to provide consumers with greater transparency about sales incentives

The Code should contain requirements for CSPs to be more transparent about their sales commission structures. This includes requirements for sales agents to explicitly tell consumers when they will be paid commission for making a sale.

We acknowledge the Drafting Committee's efforts to introduce provisions in clauses 6.1.4 to 6.1.7 that require telcos' sales incentives structures to promote responsible selling. Throughout the current review process, several stakeholders have raised concerns about the incentives telcos' sales commission structures may create for agents to sell products inappropriately.[3] We welcome the aim of requiring incentive structures to promote responsible selling and disincentivise inappropriate sales.

The substantive requirements of the proposed rules about sales incentives require CSPs to include material disincentives to irresponsible selling practices,[4] additional protections for consumers identified as vulnerable,[5] and metrics that promote responsible selling when setting targets, evaluating performance and calculating rewards or commissions.[6] The drafting appears to give CSPs significant discretion when determining what is required to comply with these requirements.

[3] See, eg, the ACCC's response to the TCP Code Review's May 2024 Draft, pages 5 - 6.
[4] Clause 6.1.5(a).
[5] Clause 6.1.5(b).
[6] Clause 6.1.5(c).

Where further clarification is provided in subclauses, it is also broadly defined and, in some cases, unlikely to materially affect incentives for mis-selling.

Clause 6.1.5(a)(i) refers to clawback of commissions as an example of a material disincentive to irresponsible selling. In our view, clawbacks are unlikely to materially affect the incentive for staff to engage in mis-selling. Depending on how a clawback program is structured, it may only deprive an agent of benefits of mis-selling (rather than appropriately addressing bad behaviour and preventing it from occurring in future), and would only apply where an agent who has made an inappropriate sale is caught. Without additional disincentives in place, there is a risk that agents who are prepared to make inappropriate sales would continue to consider poor selling practices are in their own personal interests.

We also question whether customer feedback scores are relevant to incentives promoting responsible selling.[7] In our experience, many consumers are unaware they have been subject to mis-selling at the time a sale occurs, and only realise the sale was inappropriate at a later time. Such consumers may feel highly satisfied with the agent who sold them the product at the time it was sold, which would be reflected in any relevant customer satisfaction scores.

Some stakeholders have expressed support for a total ban on sales commissions. While this may be an effective measure, we cannot comment definitively about the potential impact of this change on telco employment and business practices. We consider CSPs should at least be required to be more transparent about their sales incentives structures as a minimum step in this area. The current proposed drafting is unlikely to be effective in reducing mis-selling.

1.6. The Code's pre-sale information requirements should include mandatory cancellation methods

We acknowledge the draft Code expands requirements for telcos to provide clear information to consumers about their products before sales occur. New clause 6.1.2(c) improves on the existing requirements in clause 4.5.1(b) by outlining key information that sales processes must explain to consumers.

However, we are concerned some important pieces of information are still missing from the Code's requirements relating to pre-sale information for consumers. In our June 2023 Submission, we argued critical information summaries (**CISs**) should contain information about any mandatory cancellation methods a telco requires its customers to use. We are disappointed to see the current Code draft has not incorporated this feedback. We receive complaints from consumers who have difficulty cancelling their service because they were not aware of their telco's required method for requesting a cancellation.

We acknowledge that the draft includes a requirement in clause 5.3.5(f) for telcos to make information about their cancellation methods publicly available. However, this information will only be useful to consumers if they know where to find it. Providing important information such as this in CISs and requiring telcos to explain it to consumers before making a sale[8] will help ensure consumers are fully informed when making purchasing decisions.

[7] Clause 6.1.5(a)(ii) requires the incorporation of customer feedback and satisfaction scores into sales incentive structures.

[8] Under clause 6.1.2(c).

Case Study 2: Pablo's telco required him to call before he could cancel his services*

Until recently, Pablo had an internet service with Kelpie Call. Pablo wanted to cancel his service, so he emailed Kelpie Call asking to cancel it. Pablo had assumed he would be able to complete any necessary customer authentication and cancel the service by email, as the CIS for his service said he could contact Kelpie Call to cancel the service at any time. He had also sent the email requesting cancellation from his regular email address, which he had registered on his Kelpie Call account.

Kelpie Call replied to Pablo saying he could only cancel by calling its customer service area. It claimed he needed to cancel this way because it needed to ensure the security of his account. This was frustrating for Pablo, as his CIS had not specified he needed to call in order to cancel, and he did not want to wait in a call centre queue to cancel his service. He also observed Kelpie Call had not required him to call to order the service in the first place. Because Pablo was not able to cancel by email, his service remained active and Kelpie Call issued him a bill with charges for his next billing period.

After we referred Pablo's complaint to Kelpie Call, it resolved the complaint by cancelling the service and waiving the new charges on the bill he had received.

**Names of all parties have been changed.*

1.7. The Code's obligations about pre-sale information for consumers should apply directly to sales, rather than sales processes

To ensure clause 6.1.2(c) is effective in requiring CSPs to explain information to consumers, it should be redrafted so that it applies directly to a CSP's sales, rather than its sales processes. The drafting should also make clear that the information listed in clause 6.1.2(c) must be explained to consumers *before* the relevant sale takes place.

The requirements in proposed clause 6.1.2(c) apply to CSPs' 'sales processes', but not explicitly to the sales themselves. This makes it unclear whether the requirement is to apply as a direct requirement to each individual sale or as a broader process requirement. Depending on how individual CSPs interpret the requirement, they may consider that having policies or processes in place to explain the information in clause 6.1.2(c) is sufficient to comply with the clause, even if that information has not been explained to a given consumer. It is also unclear from the drafting of the clause *when* CSPs are required to explain the information.

2 Credit assessments: The Code requires greater prescription for credit assessments to avoid overcommitment

We support the intent of the substantially expanded credit assessment obligations in section 6.2 of the draft Code. We have consistently supported strengthening the Code's credit assessment requirements throughout the Review Committee process. We welcome the effort to provide more detail in the Code about what CSPs must consider when completing credit assessments. We also

welcome the introduction of explicit credit assessment rules for the business customers covered by the Code, in clauses 6.2.3, 6.2.4, 6.2.9, and 6.2.10.

However, the proposed rules for credit assessments do not require sufficient consideration of important matters relevant to a consumer's capacity to pay for products, particularly where the consumer is an existing customer of the CSP. We are concerned that the drafting is not prescriptive enough to protect consumers from being sold products they cannot afford. We are particularly concerned the rules for existing customers are significantly less robust than those that apply to new customers.

In our view, the clauses relating to the matters CSPs must consider when making credit assessments should be redrafted to ensure they meet their purpose of protecting consumers from financial overcommitment. More broadly, the credit assessment rules should be redrafted for greater clarity, and to remove the unnecessary distinction between credit assessments for new and existing customers.

Our June 2023 Submission outlined the harms that can result for vulnerable consumers when CSPs do not conduct meaningful credit assessments before selling consumers telco products. We continue to see scenarios where CSPs or their agents conduct inadequate credit assessments based largely on a consumer's payment history with the CSP. Our experience shows us assessments of this kind are often ineffective in protecting consumers from financial overcommitment.

Case Study 3: Conall was sold more than $15,000 worth of mobiles and accessories while on a government pension*

Conall has significant ongoing physical and mental health conditions. He is not able to work and relies on government support for income.

Conall went to a CurbTel store wanting to sign up for new mobile services. CurbTel signed him up for multiple expensive mobile handsets, plans, and accessories. The cost over the contract period was more than $15,000. When Conall did not meet his monthly payments, CurbTel cancelled the services. It also charged him for breaking the contracts, which included high payout costs for mobile handsets and other equipment.

Conall's representative complained to us saying CurbTel had not sold the services responsibly. The representative said Conall did not understand the contracts or costs involved when signing up for the services and could not afford to pay for them.

CurbTel told us it was appropriate to sell Conall the services. It said he passed its credit check because he had previously paid his accounts on time. CurbTel also said it had prevented Conall from purchasing more than four handsets. However, following the complaint to our office, CurbTel agreed to waive the cancellation fees out of goodwill to Conall. It let him keep his mobile handsets.

**Names of all parties have been changed. A version of this case study appeared in our June 2023 Submission.*

Case Study 4: BlockTel sold Rob multiple devices he could not afford*

Rob is an Aboriginal man and carer for a relative who lives with a disability. Last year, we were contacted by a financial counsellor who was trying to help Rob with a debt for BlockTel products he was struggling to pay.

The counsellor explained Rob had been sold the products when he went to a retail store to ask about buying a tablet device for a family member. At the time, BlockTel had a sales arrangement with the retailer. A sales representative at the store offered Rob a special deal, and he walked out of the store with multiple devices and mobile plans. Rob did not understand the total cost of the products, which came to around $5,000. Rob's only form of income was a government carers pension, and he could not afford to pay for the products. Eventually, BlockTel disconnected the services and sold the outstanding debts to a debt collector.

When we referred the financial counsellor's complaint to BlockTel, it told us Rob had passed its credit assessment before the store sold him the products, adding that he had a long tenure as a BlockTel customer. Nonetheless, it agreed to resolve the complaint by waiving Rob's outstanding debt in full.

**Names of all parties have been changed*.

2.1 The exception for debts that will not be pursued is unclear

The proposed carve-out exempting CSPs from the requirement to complete credit assessments where a debt resulting from a contract will not be pursued (in clauses 6.2.1(b), 6.2.3(b), 6.2.5(b), and 6.2.9(b)) should be removed.

Each of the draft clauses dealing with credit assessments for new and existing residential and business customers contains a carve-out that exempts CSPs from the requirement to complete a credit assessment where a contract will not result in a debt 'being pursued by the CSP'.[9] A note under each of the relevant subclauses says:

> *Note: the debt being pursued by the CSP includes passing the debt to a collection agency and/or debt buyer, default listing of the debt in line with the Credit Reporting Code, and legal action that may be taken to recover an unpaid debt. It does not include payment reminder communications to customers or restriction, suspension, or disconnection of a telecommunications service for credit management reasons (including the sending of associated notices under Chapter 9). If a CSP has a policy to waive a debt rather than pursue it, this does not affect its obligations to sell responsibly under cl 6.1 and other legal and regulatory obligations.*

It is unclear when the proposed carve-outs for debts that will not be pursued by a CSP would apply, and the drafting note extracted above does not provide material clarification. First, as the text extracted above is a note, it is unclear whether it is intended to be a binding part of each relevant Code clause. Second, if it is accepted that this note is a binding part of each relevant

[9] Clauses 6.2.1(b) for new residential customers, 6.2.3(b) for new business customers, 6.2.5(b) for current residential customers, and 6.2.9(b) for current business customers.

clause, it only provides examples of debt being pursued by a CSP and does not clearly define when a debt is *not* being pursued.

In any event, it appears the intent of the carve out is that CSPs would not be obliged to conduct credit assessments at all where (based on a CSP's own internal policy decisions), there is no possibility of credit management action external to the CSP (such as legal action or a default listing) taking place. This is inappropriate, as it does not fully reflect the risks posed to consumers by financial overcommitment.

The risks to consumers from financial overcommitment are not limited to debts being pursued externally, through means other than the telco's own credit management processes. Where a consumer is financially overcommitted, there is also a risk that, having signed up for telco services that are more expensive than they can afford, they will feel pressured to pay for those services and forego other essential purchases as a result. This may particularly be the case when a CSP sends them credit management notices under Chapter 9 of the Code. The risks to an overcommitted consumer are further pronounced when they pay for their services by direct debit. In these circumstances, their telco may automatically deduct charges, leaving the consumer in financial hardship, even though they do not owe a debt to the CSP.

The drafting note extracted above suggests the carve-out would operate to exempt a CSP from the requirement to complete a credit assessment where it 'has a policy to waive a debt rather than pursue it'. We think it is doubtful any CSP has a blanket policy to waive all debts owed by all its customers. We do acknowledge many CSPs may have internal policies to waive debts of or below a pre-defined amount, or debts owed by particular customer cohorts.

These are legitimate business decisions for CSPs to make when considering the risks and benefits of debt collection. However, they are not an appropriate criterion for determining whether consumer protection regulation requires a CSP to complete a credit assessment. This is because the decision whether to pursue a debt is entirely at the discretion of the CSP, and the CSP is likely to be the only party that knows (at the time a sale takes place) whether it will pursue any resultant debts. Where a CSP determines (at the time of a sale) that it will not pursue any debts from a given contract, it is unlikely it will inform the consumer (or anyone else) of that fact. Further, such a decision would not preclude the CSP from changing its policy and pursuing any resultant debts at a later date.

The result is that for any given sale, it is unlikely that a consumer, regulator or our office would be able to determine with any degree of certainty whether the credit assessment rules apply.

2.2 'Affordability indicators' are not clearly defined

The most robust of the proposed content requirements for credit assessments are those for new residential customers, in clause 6.2.2. Clause 6.2.2 requires a CSP to consider a consumer's employment status, employment type, and 'affordability indicators' in addition to completing an external credit check. The phrase 'affordability indicators' is not defined, but clause 6.2.2(a)(iii) provides several examples of 'affordability indicators', including the consumer's age, income, time at their current address, and general expenses.

This gives CSPs broad discretion to determine what affordability indicators they will consider. At a minimum, it would appear to allow a CSP to consider only a single affordability indicator such as the consumer's age. This is unlikely to provide a robust picture of the consumer's financial circumstances and ability to afford a product.

2.3 The proposed requirements for a CSP's current residential customers are not prescriptive enough to protect consumers

We are concerned about the proposed requirements for a CSP's existing residential customers in clause 6.2.6. Unlike the requirements for credit assessments conducted for new residential customers, clause 6.2.6 lists the matters CSPs must consider as alternative options rather than as separate mandatory criteria. Credit assessments for new residential customers must consider their employment status *and* employment type *and* affordability indicators *and* an external credit check. On the other hand, for existing residential customers a credit assessment need only consider employment status *or* employment type *or* affordability indicators *or* their payment history with the CSP.

Clause 6.2.7 requires an external credit check for an existing residential customer only when the customer seeks to increase their 'current credit commitment with their CSP' by more than $1000, and any previous external credit check for the customer occurred more than six months beforehand. The phrase 'current credit commitment' is not defined in the draft, but it appears to refer to a CSP's own internal credit limits for a customer, based on the products the customer currently has on contract with the CSP.

In many cases, a consumer's exact 'current credit commitment' is likely to be known only to the CSP. This will make it more difficult for consumers and regulators to determine whether an external credit check is required by clause 6.2.7.

The combined effect of proposed clauses 6.2.6 and 6.2.7 is that in many cases the minimum credit assessment required by the Code for an existing residential customer could be based only on that customer's payment history with the CSP. Alternatively, it could be based solely on one piece of basic financial information about the consumer, such as their employment type. This largely preserves the current Code's position on credit assessments for a telco's existing customers, and is unlikely to effectively protect consumers from financial overcommitment. We know from our experience handling complaints that credit assessments based only on a customer's payment history often leave consumers vulnerable to financial overcommitment and mis-selling.

In our view, there is no clear justification for requiring substantially less robust credit assessments for a telco's existing customers than for its new ones. We acknowledge it may be reasonable for telcos not to complete a new external credit check for all new contracts current customers sign up for. For example, it may be reasonable to forego external credit checks where a current customer signs up for a product that represents a small additional cost compared to their current monthly charges. However, a blanket exemption from external credit checks where a customer has completed an external credit check in the last six months is not appropriate. A consumer's financial circumstances can change substantially in just a few months.

To support consistency of approach between telcos, the requirements to consider 'affordability indicators' should prescribe the particular affordability indicators all credit assessments should consider. The unnecessary distinction between credit assessments conducted for new and existing customers should be removed. This will address the current industry practice of CSPs relying only on a customer's payment history, which is often inadequate to protect consumers. The circumstances where external credit checks are required should be clear in all cases, and not reliant on information likely to be known only to the CSP. The exemption from requirements to complete an external credit check if an existing customer has completed an external credit check in the last six months is inappropriate and should be removed.

3 Billing rules: Consumers should be universally entitled to clear, itemised bills

In our June 2023 Submission, we argued the Code should contain clear, universal requirements for telcos to issue bills to *all* their customers, irrespective of the type of plan they are using or how they pay for their products. We also argued bills should be itemised and presented in a simple and easy-to-understand format.

We are disappointed to see that the current draft Code has not incorporated our feedback in this area. Rather, it appears to have expanded the circumstances in which telcos will be permitted not to issue bills. Under proposed clause 8.3.1, telcos will only be required to issue bills for 'post-paid variable charge telecommunications services'. Any service that notionally has a fixed charge each month will excluded from the requirement, and telcos will only be required to issue receipts for these services after a consumer has paid, if they do not provide bills for such services.

We note that even where a telecommunications service has regular, fixed charges, there may on occasion be additional charges a consumer will need to pay for that service. For example, even if a consumer pays a fixed monthly charge for their service, they may incur additional charges for technicians' visits or international calls.

3.1 Traditional bills remain an important source of charge information for consumers

We appreciate some telcos may have operational reasons to prefer billing arrangements where they do not need to issue traditional bills. Many telcos have in recent years implemented web platforms and smartphone apps their customers can use to review their charges (and sometimes download various records of their charges) without the need to wait for a bill to be emailed or posted to them. For many consumers, this may be an efficient and convenient way of managing their charges. However, many consumers still want and rely on bills. We receive complaints from consumers who have difficulty accessing billing information about their telco services because they do not receive traditional bills.

In our experience, consumers can have difficulty accessing billing information on a website or app where their internet is not working, or their provider's web platform is malfunctioning. Some consumers have difficulty accessing billing information online because they have low levels of digital literacy or do not have access to a smartphone. As noted by the Australian Energy Regulator in its 2025 Customer Engagement Toolkit, digital-only services exclude many Australians, particularly First Nations people, people over 75, and those who did not complete secondary school.[10]

Where a telco decides not to issue bills, we often see that elderly or less well-connected consumers are disadvantaged. In other cases, consumers tell us they need access to formal bills for their personal financial records.

In this context, the requirements proposed in section 8.6 (requiring CSPs to make information available that allows consumers to verify charges), and clause 8.1.1 (requiring CSPs to make

[10] Australian Energy Regulator, 'Customer Engagement Toolkit – Better Practices for Identifying and Supporting Consumers Experiencing Vulnerability', page 14, citing ARC Centre of Excellence for Automated Decision-Making and Society, 'Measuring Australia's Digital Divide – Australian Digital Inclusion Index 2023'. The Index identified that 9.4% of Australians are 'highly excluded' from digital engagement and a further 14.2% are 'excluded'.

information about 'account support' publicly available) are likely insufficient to keep consumers readily and easily informed about their charges. Nor is the proposed requirement for direct debit reminder notifications in clause 8.11.2 a sufficient substitute for traditional bills. This is because the notifications are not required to contain an itemised list of charges. Where a telco chooses to include in their direct debit reminders only a link to more information on an online platform, it may also present accessibility problems for digitally excluded consumers.

From a complaint-handling perspective, we also observe that bills are a valuable point-in-time record of the amounts a telco has charged or will charge a consumer, and of what products charges are for. Where a consumer disputes charges, bills can help the consumer, their telco and our office determine whether the charges are correct.

Case Study 5: Qiang's telco refused to send him bills after changing its billing platform*

Qiang's telco, Sandal Net recently changed its billing platform, and moved his services onto a new system. Before Sandal Net moved Qiang's services to the new system, he was accustomed to paying for his services using Bpay. After his account was moved to the new system, Qiang still had the option to pay by Bpay, but Sandal Net stopped emailing him bills for his services.

When Qiang contacted Sandal Net to ask what had happened with his bills, Sandal Net told him he would no longer receive bills for his services, but it could send him receipts for his payments after he had paid. Sandal Net told Qiang that to find out how much he would need to pay each month, he would need to log into the Sandal Net app or call Sandal Net to enquire about his account balance. Qiang is a pensioner, and is not very savvy with technology. He does not have a smartphone, so he asked Sandal Net to email bills to him instead. Sandal Net refused to do this, saying its system could not email him bills anymore.

Not knowing how he should pay his charges without receiving a bill first, Qiang contacted our office. After we referred his complaint to Sandal Net, Qiang was ultimately able to resolve his concerns with its dispute resolution area.

**Names of all parties have been changed.*

Case Study 6: Alex needed invoices for their financial records*

Until recently, Alex had a mobile data service with Shirt Telecom, with a linked mobile device. Alex wanted to keep copies of tax invoices for their service, for their own financial records. However, because Alex was on a subscription-style plan paid by direct debit, Shirt Telecom was not sending them bills for the service.

When Alex contacted Shirt Telecom to ask for copies of their invoices, Shirt Telecom said it could not provide any, as Alex's plan did not receive bills. Instead, Shirt Telecom said Alex could use their Shirt Telecom app to download copies of receipts for their previous payments.

Alex attempted to use their Shirt Telecom app to download their receipts, but was unable to do so because of a technical problem with the app.

After we referred Alex's concerns to Shirt Telecom's dispute resolution area, it agreed to resolve their concerns by sending them copies of invoices for their previous payments.

**Names of all parties have been changed.*

3.2 The Code should contain a universal requirement for itemised bills

The Code should contain a universal requirement for telcos to issue itemised bills for *all* their products. The bills should be in a simple and easy-to-read format and issued before the relevant charges come due or are deducted.

Broadly applicable requirements to issue bills are uncontroversial in other essential services industries such as the energy and water sectors.[11] It remains unclear to us what the rationale is for excluding telecommunications consumers from similar protections. If the Code is to provide adequate safeguards for consumers, its billing requirements must be brought into line with other essential services industries. Consumers of telecommunications products are entitled to expect they will receive a clear, itemised record of how much they will be paying and what they will be paying for, well before they are required to pay the relevant charges.

Given the proposed new requirements for all telcos to offer at least one manual payment method (which we support),[12] consumers will also require access to bills to facilitate manual payments.

4 Credit management: Strong credit management protections should apply to all consumers

We welcome Communications Alliance's efforts to strengthen the Code's credit management rules. We particularly support the proposed requirement in clause 9.1.1 for CSPs to reconnect, unsuspend or un-restrict services, where they have been disconnected, suspended, or restricted in error or in breach of the Code's notice requirements.

However, in our view the current drafting remains insufficient to protect consumers from loss of service and give them a reasonable opportunity to resolve payment issues before their CSP imposes restrictions on their service.

As outlined in our June 2023 Submission, we receive complaints from consumers who say their telco disconnected or restricted their service without adequate (or in some cases, any) notice. The recent implementation of the ACMA's *Telecommunications (Financial Hardship) Industry Standard 2024* (**Financial Hardship Standard**) has introduced new and more robust credit management rules for the protection of consumers experiencing financial vulnerability. However, these protections generally only apply to consumers a CSP has identified as experiencing financial hardship, or who are discussing options for financial hardship assistance with their CSP.[13]

[11] See, eg, National Energy Retail Rules, rule 24; Victorian Energy Retail Code of Practice, rules 57 and 62.

[12] Under clause 8.10.2.

[13] See Financial Hardship Standard, sections 23 and 24.

Our experience has shown that even consumers who are not experiencing financial hardship can suffer significant detriment when their CSPs take credit management action without appropriate warning.

Case Study 7: Trish's telco suspended her service immediately and without notice, after she missed a payment*

Trish has several mobile services with Heron Tel, which she pays for by direct debit. Last year, Trish's debit card expired, which resulted in her next direct debit payment failing. Heron Tel let Trish know about the failed payment, so she contacted Heron Tel, updated the payment details and paid the outstanding charges on her account.

The following month, Trish's next direct debit payment failed to process. Without sending Trish any kind of notice about the failed payment, Heron Tel's payment system immediately suspended her services. Trish called Heron Tel as soon as she realised the payment had failed again, and paid her charges. Heron Tel told Trish its system should unsuspend her services within two hours. By the following day, Heron Tel had only unsuspended one of Trish's services, so she made a complaint to our office.

After we contacted Heron Tel's dispute resolution area, it unsuspended Trish's services and resolved her complaint.

**Names of all parties have been changed.*

Case Study 8: Jordan's service was disconnected after they missed one direct debit payment*

In the months leading up to their complaint, Jordan had a mobile service with Telecare. Jordan's life had been stressful in those months, as their partner had lost her job and this had caused disruption to their routine and reduced the income available to their household.

Things became more stressful for Jordan when their mobile phone suddenly stopped working. Using a friend's phone, they called Telecare to ask what had happened. Telecare told Jordan their last direct debit payment for their mobile service had not gone through. It said it had waited until the end of Jordan's billing cycle before disconnecting their service. Because of this, Telecare put payout fees of around $1,300 on Jordan's account for their mobile handset.

Jordan had not received any notice that their service would be disconnected. Even though they explained their circumstances and offered to pay the missing payment, Telecare refused to reinstate their mobile plan. Telecare offered to waive some of the charges, but said Jordan had only two weeks to pay off the remaining debt.

**Names of all parties have been changed. A version of this case study first appeared in our June 2023 Submission.*

4.1 The Code must contain clear obligations for reconnection of services

As noted above, we support the intent of proposed clause 9.1.1. In our June 2023 Submission, we argued for rules requiring telcos to reconnect services that had been disconnected in error or in beach of the Code's notice requirements.

However, clause 9.1.1 does not contain any mandatory timeframe within which services must be reconnected, unsuspended or un-restricted. This means CSPs will be able to determine reconnection timeframes themselves. Given the fundamental importance of telecommunications services to the Australian community, it is critical that where services are restricted or disconnected in error or in breach of the notice rules, they are un-restricted or reconnected as soon as possible.

This is best achieved by including a clear, mandatory timeframe within which CSPs must reconnect, unsuspend or un-restrict services. Without a clear mandatory timeframe, it is likely there will be inconsistent approaches to reconnection timeframes across the industry.

Clause 9.1.1 also includes an exception to the requirement to reconnect, unsuspend or un-restrict services where a reconnection 'is not practical'. A drafting note underneath the clause says 'not practical' may include situations where 'network configuration makes reconnection impossible', the customer is uncontactable, or 'the specific telecommunications service is no longer available'. The clause as currently drafted gives CSPs too much discretion to determine when they are and are not required to reconnect services. The exception for reconnections that are 'not practical' should be removed or amended to only apply in very specific circumstances, noting that it is not clear whether guidance notes are binding on telcos.

4.2 The Code should provide clear and robust credit management notice obligations

In our June 2023 Submission, we called for the Code's disconnection, suspension and restriction notice requirements to be strengthened so they adequately reflect the essential nature of telecommunications services. We also argued the Code should explicitly apply the notice requirements to situations where barring, suspension or disconnection occurs following a missed automatic payment on a 'subscription-style' service.

What are Automatic Payments?
Telcos sometimes refer to these payment methods as operating on a 'subscription model'. Typically, plans operating on this model have set charges each month and the telco deducts the charges from the consumer's bank account or credit card in advance by direct debit. The consumer often does not receive a bill before the payment is deducted. Information about the consumer's current billing cycle and upcoming charges is usually available in some form on the telco's website or app.

4.3 The Code's definitions of 'credit management' and 'credit management action' require clarification

As shown in Case Study 7 above, we continue to receive complaints from consumers who say their services are impacted by credit management practices without adequate notice, after a failed direct debit payment. We appreciate Communications Alliance has included new requirements for

telcos to 'promptly notify' consumers of failed direct debits and provide at least three working days after the notification before re-attempting a failed debit.[14]

These requirements are not an effective substitute for credit management notice requirements such as those contained in section 9.3. This is because they do not prohibit a CSP from taking credit management action (such as suspending, restricting or disconnecting a service) without appropriate notice. Requiring CSPs to provide notice before re-attempting a failed direct debit will not prevent the harms caused by inappropriate restriction, suspension or disconnection of services.

The current draft Code includes updated definitions of 'credit management' and 'credit management action'.[15] Credit management is defined as 'the process by which a CSP collects outstanding debts from customers', and credit management action is defined to include processes by which CSPs help customers to manage risks of debt related to telco products or their expenditure, manage credit risks to the CSP, or collect outstanding debts from customers.

We understand the intent of these changes was to align the Code's definition with that contained in the Financial Hardship Standard. However, unlike the definition of 'credit management action' in the Financial Hardship Standard, the proposed definitions do not explicitly refer to restriction, suspension or disconnection of services. We also note that while the proposed definition of 'credit management action' refers in part to processes used to help consumers manage their own financial risks, and to manage credit risk to a CSP, the proposed definition of 'credit management' is narrower, referring only to CSPs' processes for collecting debts. It is important these definitions are consistent, as the credit management notice requirements in section 9.3 apply only to restrictions, suspensions, and disconnections undertaken 'for credit management reasons'.

The Code's definitions of 'credit management' and 'credit management action' should be updated so they are consistent. Each definition should cover action taken to manage a CSP's credit risks, collect debts, *and* to manage a customer's expenditure and risk of debt. The definitions should also explicitly cover restriction, suspension and disconnection of services following failed direct debit payments, to ensure consumers who pay for their services using automatic payments are adequately protected.

4.4 Credit management notice timeframes must provide time to enable consumers to avoid disconnection and stay connected

The Code's credit management notice requirements in section 9.3 should align with those contained in the Financial Hardship Standard. This would require mandatory notice periods of 10 working days to apply to all consumers (including those not identified as being in financial hardship) before a CSP restricts, suspends, or disconnects services for credit management reasons.[16]

Our June 2023 Submission argued the Code's existing credit management rules allowing telcos to disconnect services with only five working days' notice did not reflect the essential nature of telecommunications services. We are concerned that the current Code retains the status quo of five-working-day notice periods for the restriction, suspension and disconnection of services. We maintain notice periods of only five working days are insufficient to protect consumers from loss of service and provide a reasonable opportunity to address overdue payments.

[14] Clause 8.11.3.

[15] Section 1.2.

[16] See Financial Hardship Standard, subsection 24(5).

Since our submission, the Financial Hardship Standard has introduced strengthened notice requirements for consumers experiencing financial hardship. These rules provide a vital safeguard for the most financially vulnerable consumers. However, the Standard's credit management requirements apply only to consumers a CSP has identified as experiencing hardship and those discussing options for assistance with a CSP.

The Financial Hardship Standard requires CSPs to take all reasonable steps to identify if a consumer is in financial hardship when considering whether to take credit management action.[17] However, the expanded notice requirements only apply to identified 'financial hardship customers'.[18] Consumers who do not proactively seek help or discuss financial matters may not be successfully identified as financial hardship customers. Where a consumer is not identified as a financial hardship customer, they will not benefit from the expanded notice requirements, irrespective of whether in reality they are experiencing payment difficulty.

The Financial Hardship Standard has provided welcome improvements to credit management protections for those consumers identified as experiencing financial hardship. However, in our view the most effective way to protect consumers experiencing payment difficulty from the impacts of credit management action is to adequately protect all consumers from it.

4.5 All credit management notices should list the TIO's contact details

In our June 2023 Submission we argued the TIO's contact details should be included on all reminder, barring, suspension, and disconnection notices. This is because our office plays an important role in helping consumers experiencing or anticipating payment difficulties, and those who may have reason to dispute debts on their telco account. Consumers can only come to our office for assistance if they are aware our service exists and that they can contact us for help.

We are disappointed our recommendation has not been incorporated into the current draft. As we have reiterated throughout the Review Committee process, requiring the details of external dispute resolution schemes on credit management notices is uncontroversial and expected in other essential services industries.[19] The ACMA has recognised this by requiring the TIO's contact details to be included in credit management notices sent to financial hardship customers under subsection 24(5) of the Financial Hardship Standard. To adequately reflect the status of telecommunications as an essential services sector, the Code's rules relating to credit management notices should be brought into line with this requirement.

5 Requirements to advise consumers about changes to their contracts should apply to all changes

Stakeholder views are sought about proposed clauses 7.2.2 and 7.2.3, which require CSPs to inform customers about any CSP-initiated changes to a customer's telecommunications service contract that are detrimental to the customer. The requirement does not apply where (among other

[17] Subsection 23(1).

[18] The expanded notice requirements of subsection 24(5) of the Financial Hardship Standard apply where it is open to take credit management action against a financial hardship customer under subsection 24(2). Broadly, subsection 24(2) permits CSPs to take credit management action against a consumer who has a financial hardship arrangement in place or is discussing options for assistance (which would otherwise be prohibited under subsection 24(1)), where the consumer has not complied with a previous arrangement and the CSP has met various formal requirements to attempt to contact the consumer and review the previous arrangement.

[19] See, eg, South Australian Water Retail Code (Major Retailers), clause 26.1.2.

circumstances), the CSP reasonably considers a contract change is likely to benefit the customer or have a neutral impact on them.

We agree with the view expressed by other stakeholders that the requirement to notify consumers of changes to their contract should apply to all changes, rather than only to detrimental ones. This will remove the need for CSPs to make a subjective assessment of whether a change is detrimental to a consumer, noting that different consumers may themselves consider the value of particular contract terms differently. We do not accept there is a substantial risk that consumers will disregard notification of positive or neutral changes. In our view it is more appropriate that consumers are notified of all changes so they can decide for themselves whether a change is concerning to them.

6 The definition of 'consumer' should align with other applicable consumer protection regulation

The Code's definition of 'consumer' should align with those used in other consumer protection regulations that apply generally across the telecommunications sector. Suitable definitions to align with are contained in the Financial Hardship Standard and the *Australian Consumer Law*.

The draft Code's definition of 'consumer' has been modified to include additional criteria business and non-profit organisation consumers must satisfy before they qualify for the Code's protections. The current Code's definition of 'consumer' includes a business or non-profit organisation if it acquires or may acquire telecommunications goods or services other than for resale purposes, does not have a genuine and reasonable opportunity to negotiate the terms of its customer contract, and has or will have an annual spend with the Supplier that is estimated on reasonable grounds by the Supplier to be no greater than $40,000.

The proposed updated definition adds to these criteria, requiring also that a business or non-profit consumer have an annual turnover estimated to be less than $3,000,000 and no more than 20 full-time equivalent employees. We understand these changes have been proposed in response to concerns expressed by industry that the Code may cover some larger businesses (including some multi-national corporations), when they spend less than $40,000 a year with a telco. We understand these additional criteria have in part been proposed to align with our office's own current criteria for small business consumers.

We caution against using our own current small business criteria as a restrictive requirement for business and non-profit consumers to qualify for protections under the Code. Under our Terms of Reference, the TIO's jurisdiction to accept complaints from small businesses and non-profit organisations is not strictly limited by defined criteria.[20] We publish guidance on our website about the kinds of small businesses and non-profit organisations from which we will generally accept complaints. However, we retain discretion to accept complaints from small businesses and non-profit organisations that do not strictly meet our published guidance, if this is appropriate in all the applicable circumstances. We also highlight that our published guidance may be subject to change in future.

We also observe that the question of whether a consumer's complaint is appropriate to be handled by an external dispute resolution scheme (like the TIO) is different to the question of which consumers should have access to consumer protections. Should it be registered, the protections of

[20] See TIO Terms of Reference, clause 2.1 and part 8 definitions of 'consumer' and 'small business or not-for-profit'.

the TCP Code will apply to a consumer covered by the Code irrespective of whether that consumer can make a complaint to our office.

Appendix A: Additional targeted commentary on the draft Code

Area of the draft Code	Our commentary
Authorised representatives and bereavement support	
Clause 4.3.2(c) – levels of authority granted to authorised representatives	The note under this subclause states a consumer's authorised representative may be given authority to 'act on the customer's behalf as if they were the customer, or may be granted limited, defined rights.' It is not clear whether this note is intended to create any obligations for CSPs about the levels of authority they must allow consumers to give an authorised representative. We receive complaints where the representatives of vulnerable consumers say a telco has told them they are not able to do certain things on the consumer's account (such as cancelling a service or moving a service to a new address), even though the consumer had granted them full authority on the account. There should be a clear obligation for CSPs to accept an authorisation from a consumer that gives their authorised representative the ability to do anything on the account the consumer could do. This obligation should be contained in a separate Code clause rather than a note, to clarify that it is binding. There should also be a clear obligation on CSPs to inform account holders about the nature and extent of powers granted to an authorised representative, including what an account holder can do if they want to revoke their authorisation. We sometimes see complaints where an account holder has not understood the full extent of the powers they were granting to an authorised representative, and the authorised representative took advantage of this to the consumer's detriment. We also see complaints from consumers who say their telco told them an authorised representative they had set up on their account had 'expired'. Depending on the circumstances, this can sometimes cause significant inconvenience or anxiety for vulnerable consumers, who then have to complete the process of re-authorising their representative. We understand some telcos place time limits on the authorisation of representatives as a security measure, but it should always be the consumer's choice to remove an authorised representative. In our view, it is beneficial for a telco to remind a consumer about authorised representatives on their account (and of how they can remove those representatives), but telcos should not be permitted to remove authorised representatives unilaterally. A new clause should be inserted into the

	Code to make clear CSPs can only remove an authorised representative on an account holder's instructions.
Section 4.5 – Managing a customer's death	The new section 4.5 provides rules for managing a customer's death. Broadly, these rules would require CSPs to have processes in place to accept notification of a consumer's death from an 'Authorised Estate Representative' and facilitate management of the deceased person's account in accordance with their representative's wishes. We acknowledge Communications Alliance has outlined that the proposed requirements in section 4.5 would be subject to the multifactor authentication requirements of the *Telecommunications Service Provider (Customer Identity Authentication) Determination 2022*. The Australian Communications and Media Authority is currently considering proposed amendments to that Determination. We support the goal of helping consumers deal with bereavement issues more easily and efficiently. We receive complaints from consumers who are experiencing delays and other difficulties dealing with bereavement issues. Typically, these consumers come to us for assistance in cancelling their deceased relative's services and ensuring any remaining charges are finalised. Occasionally, consumers want to transfer the deceased relative's services into their own name or organise for a credit balance on their account to be refunded. We are concerned to ensure that if the proposed requirements in section 4.5 are ultimately incorporated into the Code, they do not create an undue risk that CSPs will accept instructions from persons who are not authorised to represent a deceased estate. The proposed definition of 'Authorised Estate Representative' is broad, covering any 'party with a confirmed relationship to a deceased customer's account who has met the CSP's evidence of the customer's death requirements, and met the CSP's identification requirements.' A note underneath the definition says this may include the customer's next of kin or an individual with power of attorney. Depending on the circumstances of a deceased estate, we understand these persons may or may not be authorised to represent the estate. The typical bereavement request where a consumer just wants to cancel their deceased relative's account is likely to represent minimal risk to the estate. Where a bereavement request involves the refunding of credit balances or the transfer of services or accounts into another person's name, there may be increased risks. We encourage Communications Alliance to be mindful of any risks that may be posed to a deceased person's estate by the proposed section 4.5 requirements, when determining the final drafting of the section.

Pre-sale information for consumers and sales practices	
Clause 6.1.10 – requirements to provide pre-sale information about mobile coverage	We regularly receive complaints from consumers who say they received incorrect advice about the level of coverage available, or that their telco did not check the level of coverage available at their address before selling them a mobile service. We support the intent of new clause 6.1.10 (to give consumers access to coverage information during a sale), but are concerned it does not go far enough to make a meaningful difference to current sales practices. The clause will only apply to new residential customers, and only applies where a sale is 'assisted' (by a staff member). Where the clause applies, it requires the telco to direct a consumer to check coverage maps themselves, rather than requiring the *CSP* to check and advise on available coverage in the locations where a consumer wants to use their service. It is not clear what the rationale is for limiting this clause to new residential customers. In our experience, consumers often discover their telco does not have good mobile coverage at their new home or place of business after moving. While a consumer will likely be aware of the level of coverage they can expect at their current home if they have an existing mobile service with their telco, this may not be the case if an existing customer wants to buy a service before moving. Similarly, an existing customer may only have fixed line services (and therefore no lived experience of their telco's mobile coverage). Small business consumers also have an interest in receiving accurate information about mobile coverage. To support the effective provision of coverage information to consumers, the clause should apply to all sales of mobile services (not just sales to new residential customers where the sale is 'assisted'). As we recommended in our June 2023 Submission, there should also be a requirement for CSPs to provide coverage information in a standardised format, to assist consumers when comparing telcos.
Clause 5.1.1 – requirements to make CISs available	Clause 5.1.1 defines the offers for which CSPs must provide CISs. As currently drafted, paragraph (a) says a CIS must be made available for all offers for telecommunications services. Paragraph (b) says a CIS must me made available for all offers for 'telecommunications services where a bundled telecommunications good or additional service is included as a mandatory component of that offer'. This drafting is unclear, as on the face of it all offers covered by paragraph (b) would also be covered by paragraph (a). That is, all telecommunications services with bundled goods or services are also covered by the broader category of telecommunications services. It is not clear what offers are intended to be covered by paragraph (b) that are not already covered by paragraph (a). If the intent is for CISs for telecommunications services to be required to cover any telecommunications *goods* or *non-*

	telecommunications services that are bundled with the telecommunications service as a mandatory component of an offer, then paragraph (b) should be redrafted to clarify this. We sometimes deal with complaints about telecommunications-adjacent products some telcos offer as add-ons to telecommunications products. One example of this kind of product is the mobile handset replacement services offered by some larger telcos. Typically, these services will allow a consumer (for a monthly fee and subject to various conditions) to return their contracted mobile device before its minimum contract term has expired, and sign up for a new device repayment plan. In our experience, consumers can sometimes find these products confusing, and may benefit from CISs being provided for them. We are aware at least one major telco provides a CIS for this kind of product, but it is not clear that the Code requires this. Consumers could benefit from the Code being clear that CSPs are required to issue CISs for these kinds of products.
Clauses 5.1.8 and 6.1.2(c) – content requirements for CISs and information that must be explained to consumers pre-sale	In addition to our comments about the importance of consumers receiving notice about all CSP-initiated changes to their contracts rather than just detrimental ones (under clauses 7.2.2 and 7.2.3), we would support information about CSP-initiated contract changes being given to consumers early in the sales process. We receive complaints from consumers who are surprised or unhappy to discover that their telco has changed the terms of their contract. Requiring CSPs to include in CISs (where applicable) an explanation that they may unilaterally alter the terms of a contract would promote better consumer understanding and may reduce complaints about these issues. A requirement for CSPs to explain the possibility of CSP-initiated contract changes to consumers before a sale takes place would also support better consumer understanding.
Credit assessments	

Retention of credit assessment information	Our complaint-handling staff often find that when they need to investigate a complaint where it appears a telco may not have completed an adequate credit assessment, they have difficulty obtaining useful information from the CSP in order to review the credit assessment. In these circumstances, the CSP often says it either cannot provide any information relating to the credit assessment, or the information it can provide is cursory and does not show what factors its assessment considered or how the factors were assessed. To assist telcos and consumers in resolving complaints relating to the adequacy of credit assessments fairly, CSPs could be required to record and retain information they considered as part of their credit assessments, including a description of how they applied the information when making a credit assessment, for the duration of the contract plus 24 months. This could be achieved by explicitly defining what information CSPs are required to retain about credit assessments in order to comply with the record retention requirements in clause 2.4.1. Any privacy risks associated with collecting and retaining information to support credit assessments could be mitigated by a requirement for CSPs to delete the information once the mandatory retention period has expired.
<u>Contract information for consumers, including retention of contract information</u>	
Clauses 6.3.2 and 6.3.3 – provision of 'order summaries' to consumers after sale	We support the requirements for CSPs to give consumers 'order summaries' within five working days of entering into a customer contract. In principle, this should give consumers easy access to basic information particular to their individual contracts. The requirements relating to the content of 'order summaries' could be improved by including additional pieces of important information. In our view, 'order summaries' should also be required to include the name and ongoing cost of the relevant telco product. We acknowledge this information will be included in the telco product's CIS (and that the order summary must contain a link to the CIS). However, in our experience CISs often cover more than one plan, including plans with differing prices (for example - all of a CSP's internet plans for different NBN speed tiers). This can cause confusion for consumers, as without more information specifying the name of their plan, they may not know which part of their CIS to refer to.

	It may also be helpful for there to be a requirement that order summaries contain the 'essential information' for a given telecommunications product.
Clause 6.3.4 – retention of information about consumer contracts	We observe the draft no longer explicitly requires for CSPs to retain auditable records establishing that a consumer agreed to enter into a contract. The current Code contains such a requirement in clause 4.6.5(b), but the new clause 6.3.4 requires CSPs to retain only the consumer's order summary, the CIS for the telco product and the CSP's standard form of agreement, as well as 'records to enable a customer to verify that the process for entering into the customer contract was undertaken in accordance with [Chapter 6 of the Code]'. We acknowledge there have been divergent views from stakeholders about the right balance between retaining contract information for dispute resolution purposes and avoiding privacy risks. There has been much discussion about whether the Code should prescribe a period of time for which CSPs must retain information. We welcome the decision to keep the mandatory record retention periods in clause 2.4.1. Our office regularly deals with complaints from consumers where the existence or terms of a customer contract are in dispute. In this context, we often need to request access to contract information to establish the existence or content of an agreement. Sometimes a telco tells us it did not retain important information such as a physical written contract or call recording showing the consumer agreed to enter a contract. In our view, a good-faith reading of a requirement to retain records to enable a consumer to verify that the process for entering into their contact was undertaken in accordance with Chapter 6 of the Code would include a requirement to retain records showing the consumer agreed to enter a contract. However, this is not explicitly clear from the text of clause 6.3.4. In our June 2023 Submission, we argued telcos should be required to retain all contract information (including a copy of the physical written contract, call recording or webchat transcript where the consumer agreed to be bound by the contract), for a minimum period of the duration of the contact, plus 24 months. We maintain the Code should explicitly require CSPs to retain this information. Privacy risks posed by the retention of this information could be reduced by including an obligation for telcos to delete the information once the mandatory retention period expires.

Payments	
Clause 8.10.1 - 8.10.2 – changes to mandatory payment methods	We welcome the proposed requirement for CSPs to offer two fee-free payment methods, and in particular the requirement in clause 8.10.2 for telcos to offer at least one manual payment method (such as Bpay) free of charge. However, we suggest the drafting of clause 8.10.2 could be strengthened to clarify providers must offer a free manual payment method for *all* their telco products. Under the current drafting, there may possibly be some scope for a CSP to argue it complies with clause 8.10.2 because it offers a manual fee-free payment method for some of its plans but not others. This would not be consistent with the intent of the clause. Clause 8.10.2 could be strengthened further by prescribing particular manual payment methods all telcos must offer their consumers, such as Centrepay (for those consumers who use and request it). To support good accessibility of payment methods for all consumers, CSPs could be required to offer a range of methods including Bpay and payment at a post office (noting many elderly consumers feel more comfortable paying this way).
Clause 8.10.3 – flexibility for consumers paying by direct debit	We welcome requirements for telcos to offer flexibility to consumers who choose to pay for their services by direct debit. We observe clause 8.10.3 has been drafted to give CSPs the choice about which of the three options for flexibility they offer. In our view, this is unlikely to meet the expectations of consumers paying for their services by direct debit. The clause should be amended to require CSPs to allow consumers paying by direct debit to choose at a minimum, the date *and* frequency of their payments. Where a consumer chooses a payment cycle of less than a month, this could require telcos to allow consumers to choose what day of the week their payments are deducted. We appreciate implementing more prescriptive requirements may represent some additional cost to CSPs. If a CSP determines such costs are undesirable, it would have the option of choosing not to offer direct debit payments.

Clauses 8.11.2 and 8.11.3 – timeframes for direct debit payment reminders and re-attempting failed direct debits	We support requirements for telcos to send reminder notices to consumers about upcoming direct debit payments, and for there to be a minimum period of time telcos must wait after a failed direct debit before reattempting the payment. We are concerned there is no set timeframe within which telcos must give consumers notice of a failed direct debit payment under clause 8.11.3(a). This may lead to inconsistency of approach between telcos. Having minimum timeframes a CSP must wait before re-attempting a failed direct debit will be less likely to assist a consumer, if the consumer does not receive timely notice of the failed payment. In our view, CSPs should be required to send notice of failed payments within 24 hours of a payment failing.
Clause 8.11.4(b) – timely refunds for direct debit errors	We are disappointed to see there is still no set timeframe within which CSPs must process refunds of money incorrectly debited from consumers' bank accounts. In our experience, unexpected and incorrect direct debits can sometimes leave consumers in significant financial difficulty (e.g., leaving them in a position where they are unable to pay for food or rent). Given the high level of detriment incorrect direct debits can cause, it is imperative that there be a clear, mandatory timeframe within which CSPs must process refunds after direct debit errors. We gave feedback about the need for clear mandatory timeframes for these refunds in our June 2023 Submission. We acknowledge the note beneath clause 8.11.5 does indicate refunds 'should' be processed within 15 working days. It is unclear whether this is intended to qualify the operation of clause 8.11.4(b), but a 15-working-day timeframe is in any case inadequate. At most, the timeframe for refunding incorrect direct debits should be 5 working days. This would reflect the seriousness of the detriment that direct debit errors can cause for consumers, and ensure they are not disadvantaged by such errors for extended periods of time. In our view, any clause providing a mandatory timeframe for the refunding of incorrect direct debits should also make clear what date the mandatory timeframe starts.
Credit management	

Clause 9.1.3 – 'protecting' consumers' affected by a natural disaster from disconnection because of credit or debit management activity	We support the goal of these clauses, which is to provide a level of protection for consumers affected by natural disasters, recognising that having access to working services is often necessary to keep such consumers safe. We welcome this attempt to reduce the likelihood that consumers in these circumstances will have their telecommunications services disconnected. However, we have concerns about the broad language that has been used when drafting this provision. It is not clear what it will require in practice. Given the lack of specificity in the drafting language it is likely CSPs will interpret and apply this obligation in inconsistent ways. It is also likely it will be difficult for the ACMA to enforce it. We suggest the clause should be reworded to include clear actions CSPs must take or (if that is the intent) clear prohibitions on CSPs disconnecting services in certain well-defined circumstances (for example, where a consumer's place of residence is affected by a declared natural disaster). Without clear language indicating the minimum standard of behaviour required under clause 9.1.3 there is a risk it will not achieve the desired outcome of keeping services connected.