



**Telecommunications
Industry
Ombudsman**

**TIO submission to the
ACCC's unsolicited selling
and lead generation review
July 2025**

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Introduction

Thank you for the opportunity to comment on the Australian Competition and Consumer Commission's (**ACCC's**) consultation on unsolicited selling and lead generation.

As the external dispute resolution body for residential and small business telecommunications consumers, the Telecommunications Industry Ombudsman (**TIO**) has unique insights into the harms caused by unsolicited selling misconduct.

1 We are concerned about the link between unsolicited selling and sales misconduct

Since 2019, the TIO has conducted investigations and subsequently referred at least six telcos to the Australian Communications and Media Authority (**ACMA**) and the ACCC for misconduct in their unsolicited sales practices. All six of these telcos are what we consider small telcos; however, we have observed larger telcos engage in unsolicited sales misconduct too.

Not all unsolicited sales are detrimental for consumers. Some consumers may welcome information about new services or deals. However, we are concerned about the link between unsolicited selling, mis-selling, and unconscionable sales.

1.1 Unsolicited sales and mis-selling

We have heard from consumers who have been misled about the services or products they have been offered during an unsolicited sale. Consumers said they were misled about pricing, terms and conditions, and which telco they were speaking to. This can cause financial and emotional harm for consumers.

Case study: Snowy Phones* misrepresented the services they could provide

Elijah received a call from Snowy Phones offering to provide his small business with a dedicated relationship manager and speedy internet, all at a cost less than his current provider. Elijah said he needed time to consider the matter, but when he was contacted again, he agreed to take up Snowy Phones' offer.

Three months after Elijah signed up to the new contract, he still had no phone or internet connection and had received none of the benefits that Snowy Phones promised. Elijah's business – a hobby shop which relies on internet and phone sales – was heavily affected by this. To cover the period without service, Elijah had to get a temporary phone for \$45 a month.

Elijah regularly took time out of his day to follow up with Snowy Phones. They told him on multiple occasions they would fix the problems affecting his service, but they never did.

Eventually, Elijah went back to his original provider, but he received calls from a debt collector on behalf of Snowy Phones chasing him for outstanding money, despite him never receiving the services. Elijah sought help from the TIO because he was worried about the impact on his credit score.

Snowy Phones resolved this complaint by applying a credit adjustment and waiving the balance on Elijah's account.

**Names of all parties have been changed.*

1.2 Unsolicited sales and unconscionable sales

Our complaints show that poor unsolicited sales practices disproportionately affect vulnerable consumers.

We receive unsolicited selling complaints from elderly consumers, consumers with non-English speaking backgrounds, and consumers with impaired decision-making capacity. These vulnerabilities can cause people to misunderstand what they're signing up for. It could also make them more susceptible to high pressure sales tactics.

Case study: Tui Telecom* cold-called and tried to upsell to a vulnerable consumer

Eric, an elderly consumer, went into a Tui Telecom store to get help with his phone. He was sold a new phone and accessories that he did not need and some of which he already owned. Eric did not understand that he had to pay for the new accessories.

Later, Eric received unsolicited sales calls from Tui Telecom trying to get him to 'upgrade' his plan, despite him saying he did not need a new plan.

Eric's family called Tui Telecom to ask about Eric's situation. They were told they must go into the store and deal with the store manager directly. This was not a suitable outcome as Eric's family live two hours away, and he was scared to go into the store by himself.

Eric's family contacted the TIO to complain on Eric's behalf because they believed Tui Telecom took advantage of Eric's age. Their complaint was referred to Tui Telecom for resolution.

**Names of all parties have been changed.*

Case study: An elderly consumer was signed up and charged for services that they did not want

Francesca*, an elderly consumer, received an unsolicited sales call from Phones4000 offering her internet deals for \$30. Francesca confirmed the fixed price with Phones4000. At the end of the call, Francesca was told that the service was in fact \$80. Francesca ended the call, telling Phone4000 that she was not interested in this service.

Francesca was later charged for the service and was told installation was scheduled. Francesca continued to receive unsolicited calls from Phones4000. Even though Francesca told Phones4000 said she did not want their service, Phones4000 insisted she should keep it. Francesca attempted to call Phones4000 to cancel the installation, but they did not answer her calls. Francesca's complaint is currently open with the TIO.

**Names of all parties have been changed.*

We acknowledge that some vulnerabilities can be difficult to identify, particularly where unsolicited sales take place over the telephone. We support telcos providing appropriate training and education for their frontline staff on how to identify and respond to vulnerable consumers.

2 Unsolicited selling affects both residential and small business consumers

2.1 Residential consumers

Residential consumers can be the target of unsolicited sales through telephone and in-person sales channels. However, based on our complaints and systemic investigations, unsolicited telephone sales, otherwise known as 'cold calls' are the more common method for contacting a residential consumer.

We have experienced difficulties when investigating telcos for alleged misconduct when there were little to no recordings of these sales calls. Consumers have complained to us that they were misled, or other illegal conduct occurred during these sales calls, but these allegations could not be verified due to lack of evidence. Obligations on telcos to record and retain these unsolicited sales calls could increase protections for consumers.

Systemic investigation case study: Rosie Telco* could not provide satisfactory evidence to support a TIO investigation

We notified Rosie Telco about possible systemic issues regarding its unsolicited sales practices for residential consumers. We heard from consumers that Rosie Telco:

1. misrepresented their identities and other details of their product

2. transferred their services without their informed consent, and/or
3. improperly sold services to consumers who were experiencing vulnerability.

To support our investigation, we asked Rosie Telco for full call recordings of the sales for the complaints we had identified.

In response, Rosie Telco sent our office deficient partial recordings for only a small proportion of the recordings we requested. Working with incomplete information made it difficult for our office to conclude whether the systemic matter was resolved. We subsequently referred Rosie Telco to the ACCC.

**Names of all parties have been changed.*

We support increasing obligations on telcos to record and store their successful sales calls. Privacy risks posed by the retention of this information could be reduced by including an obligation for telcos to delete the recordings once a mandatory retention period expires.

To balance consumer protections with privacy and data security considerations, we consider that the retention of unsuccessful sales calls should be limited.

2.2 Small business consumers

Small businesses can be the targets of unsolicited selling through cold calls and in-person unsolicited sales. We understand that in both situations, sales representatives can sometimes mis-represent the services they are offering, leading to consumers purchasing services they did not want or need.

In our experience, it can be difficult to determine whether poor sales practices occurred during in-person unsolicited sales. This is because there is often no record of what was said during these interactions. Minimum record keeping obligations relating to what was said during in-person sales could be beneficial in these situations.

Case study: Anna's* complaint could not be resolved due to limited evidence of an in-person sale

Chunky Mobile approached Anna's store and sold her a new phone system. Anna contacted the TIO because she believed Chunky Mobile was not honouring all the terms of their contract, which she explained had been agreed verbally during the in-person sale.

We could not make an informed decision about what had been agreed between Anna and Chunky Mobile, due to the limited evidence available. Anna later decided to close her complaint.

**Names of all parties have been changed.*

3 Current protections do not eliminate harm caused by unsolicited sales

3.1 Cooling off periods

Section 82 of the *Australian Consumer Law (ACL)* prescribes the cooling-off period within which a consumer may terminate their unsolicited consumer agreement. However, even if a consumer chooses to do this, they may still suffer detriment. For example, if they choose to go back on their original plan, this may no longer be available, or it may be a different price.

Case study: Ali* felt deceived by an unsolicited sale

Ali runs a pet store that has an internet service with Telecare. Ali received a phone call from Bee Mobile telling them that they have to transfer their service to them or they will lose their internet connection. Ali felt threatened by Bee Mobile, so they agreed to a contract changing their service.

A couple of days later, Ali asked for their service with Bee Mobile to be paused, so that they could think through their options. After learning that they could have kept their connection with Telecare, Ali felt misled by Bee Mobile, so they terminated their contract.

Bee Mobile tried to regain Ali's service by calling them eight times a day. They also contacted Ali by email, telling them that if they did not sign up with them, they would have to pay a \$45 early cancellation fee. Ali contacted the TIO to help waive this fee. They told the TIO that they felt deceived and harassed by Bee Mobile. Ali's complaint was referred to Bee Mobile for resolution.

**Names of all parties have been changed.*

3.2 Requirement to provide consumers with a copy of the consumer agreement

Under section 78 of the ACL, the dealer who negotiated the unsolicited consumer agreement must give a copy of the agreement to the consumer immediately after it is signed for in person sale, and within five business days if negotiated by telephone, unless otherwise agreed by both parties. We sometimes see telcos breaching these requirements, resulting in consumers only learning about their new contract when they are first debited or billed. This may result in consumers paying for a service on different terms to which they thought they had agreed to.

Case study: Oscar* was misled about the terms of his contract

Dance Dial visited Oscar's residential complex offering promotions for residents that joined their service. Oscar agreed to join one of their plans, however, he was misled to

believe that he would be able to adjust his plan if the initial plan did not suit his usage needs. Oscar said he wouldn't have signed up to this plan if he knew he would be unable to do this.

Oscar never received a contract, and when he contacted Dance Dial, he was told there was no way to change or cancel his plan. Oscar contacted the TIO to see if he could change his plan to reduce its cost, and their complaint was resolved after the TIO referred the matter to Dance Dial.

**Names of all parties have been changed.*

3.3 Third-party call centres

Some telcos use third-party call centres to conduct their unsolicited sales. We have received complaints from consumers saying their telco refused to accept responsibility for the actions of the third-party call centre because the telco said the third-party was not acting with their authority or because they had no oversight over the third-party's employees. In this situation, a consumer may be left without any recourse if the telco will not remediate a consumer that was misled.

We are also concerned that if a third-party call centre has their contract terminated by a telco for pressuring consumers and making misleading representations, that company can still work for other telcos and engage in the same poor sales conduct. While telcos should be responsible for the actions of any third-party call centres they engage, there should also be consequences for the third-party.

4 We support exploring the links between unsolicited selling and lead generation

We sometimes listen to unsolicited sales calls when performing our investigation function. We have observed that occasionally, the salesperson knows personal information about a consumer prior to the consumer disclosing this. This suggests to us that the call was not a cold call. We are interested to see what the ACCC learns about the relationship, if any, between unsolicited selling and lead generation.