

Summary of issues raised in TCP review process

A summary of inputs to the TCP Code review process is presented below. This includes:

- responses to the discussion paper,
- the ACMA SOE and other policy papers and statements,
- relevant public reports and statements from numerous other stakeholders,
- relevant comments received in relation to other processes (e.g. feedback provided in the review and revision process for the recently published Guideline: Assisting Consumers Affected by Domestic and Family Violence).

Updated May/June 2024 – new column added for check that we've covered in 'May package' drafting.

1. SCOPE, OVERARCHING			
Summary of issues raised	Submitters' suggested remedies	Drafting committee (DC) June 2023 response	Status check (May 2024) (A= Addressed; S = Superseded or out of scope; R = revisit)
<p>General</p> <ul style="list-style-type: none"> • Target audience unclear • Too many open-ended clauses resulting in inconsistent application • Use of terms such as 'have regard to' are unclear 	<ul style="list-style-type: none"> • clearer drafting • possible use of accompanying guidance notes to explain more complicated clauses 	<p>Use of term 'have regard to' is an accepted legal term and extensively used, including by ACCC.</p> <p>But we agree it is difficult to interpret.</p> <p>DC will review whole Code to:</p> <ul style="list-style-type: none"> • making its intended audience (industry) clear • making language clearer • desired outcomes & expectations being clear <p>Consideration to be given to:</p> <ul style="list-style-type: none"> • guidance notes for industry (if required once above changes made) 	<p>R</p> <p>Consider if guidance notes useful after registration – ask as part of public consultation?</p>
<p>Scope</p> <p>Protections for vulnerable consumers is:</p> <ul style="list-style-type: none"> • unclear ('have regard' to ACCC best practice guide) • not extensive enough • doesn't reflect the ACMA SOE 		<p>As indicated in the discussion paper, the DC is working to restructure the whole Code to make expectations & outcomes clearer throughout, but particularly in relation to provisions relating to vulnerable consumers, as envisaged by the SOE (which wasn't published when the Code was drafted)</p> <p>The DC has also been working to try to identify appropriate metrics to manage compliance issues.</p> <p>This work[®] is challenging and has been ongoing for some time.</p>	<p>A</p>
<p>Code Review Process</p> <ul style="list-style-type: none"> • The Code review is dominated by industry. 	<p>The periodic review of the TCP Code should be:</p> <ul style="list-style-type: none"> • Conducted by an independent reviewer 	<p>This comment appears not to recognise that the entire review process was substantially changed to address the feedback on this with:</p>	<p>A</p>

<ul style="list-style-type: none"> No transparency in the process to identify and address current consumer issues 	<ul style="list-style-type: none"> Include early public consultation on the terms of reference Funded separately and include funding and support for extensive consumer advocate involvement, and Industry should not control or dominate the process 	<ul style="list-style-type: none"> early commencement – started approx. 12 months earlier than previous reviews one-on-one consultations with stakeholders throughout (open to anyone) transparency of process at every stage engagement of an Independent Advisor. <p>The re-designed process has been compromised as new, shorter timeframes have been imposed, but the intent remains.</p>	
<p>Scope – Residential vs Small Business</p> <ul style="list-style-type: none"> Not clear for smaller providers with business customers how the provisions (i.e., FH, Credit Assessment, vulnerable customers) could apply to a business as opposed to an individual. <p>B2B providers noted they did not offer specific methods of communication for consumers with disability as it was not applicable to them as they only provided services to businesses.</p>	<ul style="list-style-type: none"> Suggestion to clarify and make a distinction in the Code where obligations apply to either or both residential and small business customers. 	<ul style="list-style-type: none"> The Code clearly defines Consumer to include small business, and then the provision clearly applies to consumers. It is unclear what the issue here is with whether a provision applies. <p>However, clarity & definitions to be considered and addressed in drafting.</p>	<p>A</p> <p>Stakeholders feedback welcomed on whether the issue is adequately addressed in new draft.</p>
<p>Scope – Scam</p> <ul style="list-style-type: none"> Strengthen protections within the Code to prevent scam activity and identity fraud. However, must also be cognisant of accessibility issues and potential barriers for First Nation consumers, by changes requiring photo identification verification. 		<ul style="list-style-type: none"> This is out of scope. Already existing legislation in place: Scam Code + ID Determination. but DC to put note in TCP Code to clarify scope and aims of the Code. 	<p>S (but note included.)</p>
<p>Scope – Introductory Statement</p> <p>Introductory statement outlines 7 key commitments but doesn't measure if they are sufficient.</p>	<p>Add a second limb to ask the introductory statement that asks "Are these objectives appropriate and sufficient?"</p>	<p>DC is reviewing audience/explanation of purpose/scope issues.</p>	<p>A</p>
<p>Duplication /overlap</p> <p>Sections of the Code duplicate legislation/regulation without adding extra</p>	<p>Remove clauses 4.1 Advertising</p>	<p>Noted.</p>	<p>A</p>

<p>consumer protections, or industry-specific clarification on the application of the relevant instrument.</p> <p>This is confusing and counter to the defined purpose of codes, which are required to not repeat or paraphrase regulation.</p>	<p>4.5 responsible approach to selling</p> <p>4.6 customer contracts</p> <p>Review ongoing usefulness/relevance of:</p> <p>4.2 & 4.3 relating to the CIS and other information</p> <p>4.7 customer service (noting overlap with RKR)</p>	<p>ACCC has previously been reluctant to remove duplication in this area.</p> <p>DC agrees that clauses should meet the intended Code purpose of either creating industry-specific clarity or extending consumer protections.</p>	
<p>Acknowledge improvements: issues with outdated data.</p> <ul style="list-style-type: none"> • Since the last revision complaints in context shows a healthy downward trend that industry does not get enough credit for. • Issues raised in page 4 of ACMA's SOE predominantly relate to reports made prior to 2022. • Though the data does a very good job of presenting to regulators improved performance of telcos but does little to help consumers. 		<p>Noted/agree. Except on comment about 'does little to help consumers'; the CIC creates competition and transparency in areas of customer service, which is good for consumers.</p>	n/a
<p>Illegal Churning of NBN services</p>		<p>Out of scope for this Code. But note that this issue has been dealt with through the recent changes to C647 NBN Access Transfer Code (currently with the ACMA for registration; note: if/when it is registered, there's a 12-month implementation timeframe).</p>	A
<p>Not necessary for industry Codes to confer complaint handing power to TIO under s114 of Act</p>	<p>Remove clauses conferring power on the TIO</p>	<p>Accept Remove [®] conferral powers from Code. Include reference to TIO powers in intro or other section of Code.</p>	A
<p>Out of date provisions Both the provisions 3.5.1(a) Auth reps; 3.8 Tools for unauthorised access are out of date.</p>	<p>Update to account for Customer ID Determination changes</p>	<p>Agree. Update as suggested.</p>	A

Breadth of Code – Should focus on telco’s role as CSP
Code is stifling innovation as it inadvertently captures products that are ancillary to the concept of providing connectivity.

Ensure clear definitions and scope

A Stakeholders feedback welcomed on whether the issue is adequately addressed in new draft.

2. Definitions			
Summary of issues raised	Submitters' suggested remedies	Drafting committee (DC) June 2023 response	Status check (May 2024) (A= Addressed; S = Superseded or out of scope; R = revisit
<p>General Definitions aren't clear or consistent</p>	<p>ACMA should have the power to provide binding guidance on the preferable and correct interpretation of the definitions and obligations.</p>	<ul style="list-style-type: none"> • Accept that some definitions need to be reviewed – will review all. • These should be agreed and cleared up as part of review - not in some accompanying document. • Not clear which definitions are a particular problem from ACCAN's perspective. • Binding guidance is a misnomer 	<p>A</p>
<p>Sales Representative Does not include sales staff who sell telco services and goods at third-party retail outlets (for example, JB Hi-Fi or Harvey Norman).</p>	<p>Amend to include sales staff who sell telco services and goods at third-party retail outlets.</p>	<ul style="list-style-type: none"> • The current definition appears to cover this – DC would like to seek ACMA advice /clarification. What wording does the ACMA suggest? • The exact obligations depend on contract law. • Does the issue relate to who has to comply with the TCP obligations - i.e. who is the CSP? The CSP register will address this part, by making it clear who bears the responsibility. 	<p>A</p> <p>Feedback welcomed on whether the issue is adequately addressed in new draft.</p>
<p>Small Business Current definition is problematic as it captures a lot of enterprise customers, as well as the genuinely small businesses and residential consumers who need the protections.</p>		<ul style="list-style-type: none"> • Agree that the intent of Code is to provide protection where there's a power imbalance with contract negotiation/protection. • 'small Business' is defined in many different ways in different instruments. E.g. ABS (fewer than 20 employees), TIO, ACCC, Customer ID Determination all use different definitions. • DC to consider revised definition that is fit-for-purpose. Must be something that both 	<p>A (see May package)</p>

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		<p>protects those with the need, plus does not require collection of new data from the customer to implement.</p> <ul style="list-style-type: none"> Possibly align definition with Customer ID Determination? 	
<p>Small Business The definition of small business is out of date - \$40,000.</p>	<ul style="list-style-type: none"> Update to \$100,000 to match ACCC definition. Update the definition not based on spend limits. 	<ul style="list-style-type: none"> See above. \$100,000 would capture too many business and enterprise customers and isn't a fit-for-purpose definition for these protections. 	A (see May package)
<p>Financial Hardship definition & scope Not inclusive of all customers in different circumstances e.g.:</p> <ul style="list-style-type: none"> struggling being in financial difficulty, and having trouble paying. 	<ul style="list-style-type: none"> Terminology should be amended to make it more accessible. Amend the title to use the Victorian Energy sector "<i>Assistance for consumers anticipating or facing payment difficulties.</i>" 	<p>Potentially partly now out of scope for Code, with introduction of FH Standard.</p> <p>However, note that:</p> <ul style="list-style-type: none"> A clear distinction must be made between formal financial hardship arrangements and financial assistance measures, and debt management within a financial hardship is separate (and different) to credit management actions unrelated to financial hardship. <p>Draft definitions provided to the Dept in feedback on the FH Direction are:</p> <p><u>Financial assistance measures</u> – actions to reduce costs that require no assessment or conditions to be met. These may include, for example, the customer moving to a cheaper plan.</p>	A FH Std definition used

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		<p><u>Financial hardship arrangements</u> – formal arrangements requiring an assessment against a formal FH policy with agreed terms. Focus is on managing the customer's debt (i.e. agreeing on an appropriate payment plan).</p> <p><u>Credit management</u> – actions relating to recovery of monies owed (which may or may not be related to financial hardship). These may be taken by the CSP directly, or by a 3rd party contracted by the CSP.</p>	
<p>Subscription Services There are more than just prepaid, postpaid services now, with increasing popularity for subscription services.</p>	<ul style="list-style-type: none"> Review out of date definitions of prepaid and postpaid services and include a definition for subscription services. Determine the implications of subscription services for other areas of code. 	<ul style="list-style-type: none"> Agree an update needs to be made. It may be more useful to: <ul style="list-style-type: none"> draft with focus on outcome to be achieved (or avoided) rather than service type (pre, post or subscription), rather than attempt to formally define service type. separate service from product (relates to above: focus on outcome, noting debt commonly associated more with product than with service.). 	A
<p>Authorised Representative Unclear the responsibility and abilities of what authorised representatives are able to do with an account.</p>	Make it clear that the AR can do anything the customer can do.	<ul style="list-style-type: none"> Agree. IGN being reviewed currently DC to review and AR definition proposed by IGN review committee and confirm/agree on appropriate definition with that committee. 	A
Large Supplier/ Small Supplier	Consider following the definition in the Telecommunications (Consumer Complaints) Record-Keeping Rules 2018:	<ul style="list-style-type: none"> All definitions to be reviewed 	A Definitions reviewed/amended

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	<p>“service in operation means a service that is both (a) a telecommunications service; and (b) an active service.</p> <p>Note: A service in operation can be pre-paid or post-paid, and it can be the subject of a contract of fixed duration or can be a service without a minimum term.”</p> <p>Note: This clarification is also relevant to the definition of Small Supplier.</p>		
<p>Minium Quantifiable Price</p> <ul style="list-style-type: none"> This definition is commonly misunderstood. It would be helpful to better explain the meaning in the Code noting it does duplicate section 48 of the ACL. 	<p>Insert clarifying guidance note (as it relates to month-to-month plans).</p>	<p>Review once Code redrafted and restructured to see if this is required/useful.</p>	A
<p>Standard National Mobile SMS</p> <p>Is the maximum number of characters still 160?</p>	<ul style="list-style-type: none"> Current approach in other regulatory documents is to not define SMS via reference to 160 characters. The code should align with other definitions. E.g., the Mobile Number Pre-Porting Additional Identity Verification Standard: “SMS message means a message or series of messages sent using a short message service.” 	<p>Update definition as proposed</p> <p>®</p>	A

3. Accessibility, clear communications, accurate information			
Summary of issues raised	Submitters' suggested remedies	Drafting committee (DC) June 2023 response	Status check (May 2024) (A= Addressed; S = Superseded or out of scope; R = revisit)
<p>Languages</p> <ul style="list-style-type: none"> Chapter 3 General Rules needs to be updated to be a requirement for consumers to request access to translated documentation or translation services. Same recommendation for clause 4.2 CIS and Chapter 7 Financial Hardship. 		<p>DC suggest an obligation to:</p> <ul style="list-style-type: none"> tell consumers about the Translating Interpreting Service (TIS) (noting the customer will be charged a fee for service by the TIS). provide free translated documents where the RSP actively targets language groups in their marketing <p>Note: It would not be a reasonable impost on small providers to routinely require translation into other languages.</p>	A
<p>Clear, Accurate information (specific issue consumer complaint)</p> <ul style="list-style-type: none"> Requirement under TCP Code (and ACL) to ensure information is clear, accurate, etc. However, there was incorrect information on a provider's website about roaming. Remedy was provided (roaming charges credited); website was corrected - but consumer was unhappy with the time it took.) 		<ul style="list-style-type: none"> Incorrect information on a website is a breach of the current TCP Code (and ACL - enforceable by ACCC). The issue appears to be requiring a correction in a set timeframe. It would be difficult to set a specific timeframe, particularly noting that websites have a problem with cached pages. But drafting committee will look at adding the concept of 'updating within a reasonable timeframe'. <p>®</p>	<p>A</p> <p>Requirement for 'reasonable timeframe' clear.</p> <p><i>(Note: if there is a problem, the regulator can review the case and circumstances to see if the issue was managed in a reasonable timeframe, and can take action as required)</i></p>
<p>Accessibility</p> <ul style="list-style-type: none"> No obligation to comply with World Wide Web Consortium (W3C). 	<ul style="list-style-type: none"> Recommendation to amend clause 3.2.5(a) to : ""a suppliers must ensure its web content complies with..." (amendment in italics) 	<p>This current clause is wrong – CA had advice on this independently and have facilitated an info session for members on this (2022).</p>	<p>A</p> <p>See 2024 comment log for further comment</p>

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<ul style="list-style-type: none"> No requirements to provide information in a variety of accessible formats, or design products, services, and internal policies that work for people with disability. 	<ul style="list-style-type: none"> ACMA referenced WCAG 2.0AA. Different types of accessible formats such as braille, large print, plain English, and Auslan resources, or mandating a minimum standard for accessible formats. 	<p>Moreover, WCAG2.0 Level AA is a standard that ALL organisations are expected to comply with – there is nothing telco-specific about it. Other higher penalties and obligations outside of the Code including requirements under the Disability Discrimination Act 1992 (DDA). The TCP Code should not be repeating legislation/regulation.</p> <p>However, clearly this is important. DC suggest that, to aid awareness of these legislated obligations, DC can:</p> <ul style="list-style-type: none"> clearly add 'inclusion' in a new chapter that looks at culture; cover clearly in the training section, and include a guidance box to point to obligations such as DDA and WW3. 	
<p>Accessibility – Online Communication</p> <ul style="list-style-type: none"> The current rules are out of date and do not consider the increase adoption of online communication for customer service. Online communication is not always easier to use and can pose barriers to consumers – especially language barriers and literacy difficulties. 	<p>Current protections need to be adapted to ensure consistent and effective customer service outcomes, regardless of the communication method they use to contact telcos.</p>	<ul style="list-style-type: none"> Agree with principle that consumer protection outcomes should be focus. Suggest that the Code make it clearer that where there is a digital only service model offered (which suits particular demographics), this fact must be very clear in customer information, so that customers know that this is the deal and are empowered to choose this or another option, as best suits their needs. <p>(Note: The code currently includes requirements of accessible, responsive, quality of service is regardless of method.)</p>	<p>A (see May 2024 package for code structure comments)</p>

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		(see also below)	
<p>Accessibility – Contacting telcos</p> <ul style="list-style-type: none"> • Difficulty contacting telcos; • Unable to find number; • Telcos not answering calls; and • Long wait times on webchat; <p>Limitations on automated functions for unique enquiries and complaints:</p> <ul style="list-style-type: none"> • Stuck in transfer loops; • Referred to irrelevant information • Cannot find a way to talk to a real person. 	<ul style="list-style-type: none"> • Consumers prefer the phone as a method of contact for help – especially consumers in vulnerable circumstances. • Consumers should be notified at point of sale (if not before) for digital only plans of the limited contact options available. • Benefit for telcos to maintain human based contact as a contact method for customer service. 	<ul style="list-style-type: none"> • Agree that customers should be notified about available contact methods. • Agree it should be easy to find contact details (phone <u>or other</u>, as applicable). • Consider Information obligation – incl perhaps in CIS? • DC to consider Code requirements for escalation to ‘real person’ options (to address all three final bullets.) • Note: There is a difference between chat bot and chat agent. • See also: comments above; post-sale/customer service section. 	<p>A</p> <p>Covered through new provisions including metrics, real person requirements</p>

4. Financial Hardship – NOTE: Most of this is now out of scope with the impending introduction of a FH Standard.			
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<ul style="list-style-type: none"> The definition of 'financial hardship' is narrow and should be broadened so there is no ambiguity. ACMA is aware that telcos offer 'financial assistance' but see this as sitting outside of the TCP Code definition, which we consider unsatisfactory. 		<p>(out of scope) Agree. Will provide input as part of ACMA FH Std development process.</p>	<p>A</p> <p>FH Std definition adopted.</p>
<p>Incidence and persistence of financial difficulties with telco services.</p> <ul style="list-style-type: none"> Those in FH saw telco services as the lowest priority to pay first if there were multiple bills to pay at the same time. Telco bills are likely to be an ongoing concern. ACMA report 2.4 million consumers who were concerned about paying (any) bills. This was then compared to industry figures on FH customers, with reports about 4,388 residential FH customers. 		<ul style="list-style-type: none"> Formal hardship arrangements and financial hardship assistance are different – so this is likely at least partly a definitional issue. RE definitions, the quoted stats compare apples to oranges. The 4,388 refers to those in formal FH arrangements. It does not capture the numerous customers given informal financial hardship assistance – for example, plan changes, credits, 'stay connected' plans – none of which require the customer to provide evidence of hardship. If these numbers are included, the number of customers getting financial hardship help, will be significantly bigger. (no numbers are recorded, but likely in the hundreds of thousands). <p>®</p>	<p>S (now out of scope)</p>
<p>Definition of Financial Hardship</p> <ul style="list-style-type: none"> Does not include low income as a cause of hardship. The benefits currently afforded to consumers in FH including low-cost options, payment 		<ul style="list-style-type: none"> Scope of Code changed with FH Std announcement. But DC will consider whether 'low income' can be better accommodated in other chapters of Code - e.g., is selling & 	<p>S /A</p> <p>(but where relevant, concepts covered within Code.)</p>

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plans, and shaping, are not currently available to low-income consumers.		credit check requirements (outside of FH Std).	
<ul style="list-style-type: none"> The FH definition limits the acceptable causes of consumers' financial difficulty to those contained in a list. Open-ended reference to "other reasonable temporary or ongoing" causes allows telcos discretion to determine what a reasonable cause of hardship is. This leaves discretion for telcos to determine what a reasonable cause of hardship is. Results in inconsistent interpretation/application of FH between different telcos and withing different complaints within the same telco. Deferred payment of bills "Promises to pay," do not trigger FH. The cause of a consumer's FH, and their personal belief about their capacity to pay, should be irrelevant to their entitlement to assistance. 	<ul style="list-style-type: none"> The Code should not allow a distinction between "financial hardship assistance" and other kinds of payment arrangements such as "Promises to Pay." The Code should clarify that the obligations to assist consumers apply to all consumers experiencing or anticipating payment difficulty. This should apply irrespective of the cause of that difficulty, or the consumer's personal belief about their capacity to pay. 	<ul style="list-style-type: none"> Accept that definitions can be confusing. There are formal FH arrangements vs lots of other 'help' if struggling. The DC will consider clearer definitions as they apply to TCP Code / FH Standard as that develops. 	S / A (but where relevant, concepts covered within Code.)
<ul style="list-style-type: none"> While telcos can offer payment plans and bill payment extensions outside of formal financial hardship programs, these do not attract the TCP Code protections (for example, avoiding credit management action), afforded to customers on a formal financial hardship program. 		This appears to come back to definitional issues - see earlier comments. Will consider clearer definitions ^{as} they apply to TCP Code / FH Standard as that develops.	S / A

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<p>5. Bill (5.1 Information about charging, Bills and payment processes)</p> <ul style="list-style-type: none"> Consumers don't know when to contact their service provider when experiencing difficulty paying their bill. 	<ul style="list-style-type: none"> In section 5.1.2, add to (e) that consumers experiencing difficulty paying their bill should contact their service provider before the due date. This need not contain any specific reference to hardship policies; it is just consumer education about talking to suppliers. 	<p>For billing section: Note box in code: promote the message that customers should contact their supplier early for assistance on any telco-related issue (if not overtaken by Standard requirements)</p>	S / A
<p>Not current best practice</p> <ul style="list-style-type: none"> Do not require telcos providers to proactively identify consumers they may believe are at risk of entering into financial hardship. Do not require that telco providers offer consumers reasonable repayment options, only flexible repayment options. Financial Counselling Australia (FCA) noted that 50% of financial counsellors reported offers of unaffordable hardship arrangements by telco providers happened 'regularly' or 'all the time'. Enable telco providers to disconnect consumers partaking in a financial hardship arrangement without notice 	<ul style="list-style-type: none"> Telco customers want providers to be more proactive in initiating contact with customers who they identify may be in FH preferably through human contact. Consumers believe telcos could do better were reducing prices, and being more friendly, polite, helpful, supportive, or understanding. Call centre operators should be more empathetic. (consumer quotes on improvements p.28) 	<ul style="list-style-type: none"> overtaken by Standard - comments made to Dept. 	<p>S/A</p> <p>(but where relevant, concepts covered within Code.)</p>
<p>7.1 Access to Financial Hardship</p> <ul style="list-style-type: none"> Not clear what 'readily accessible on the supplier's website' means. Can be hard to locate FH policy on website 	<p>In Section 7.1.1, there needs to be a definition of what "readily accessible on the supplier's website" means.</p>	<p>(out of scope) Agree. Will address. (or now, will be addressed in Std.)</p>	S / A
<p>7.1 Access to Financial Hardship</p>	<p>'In addition, financial hardship policies must be available in stores, on bills and in relevant</p>	<p>(probably out of scope?)</p>	S / A

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	communications with customers, alongside the direct contact details (email, phone number, live chat etc) for financial hardship staff.'	Accept general concept but need to work out 'direct contact', and also note that it's not practical to require hard copies of the policy in stores - but could look at alternatives to achieve the same. E.g. a list of QR codes with links to key docs. DC to consider including in Code if not fully covered in standard.	
7.1 Access to Financial Hardship <ul style="list-style-type: none"> Consumers not aware, don't think they'd qualify or embarrassed, don't contact telcos for help. Sometimes they then borrowed money from friends or downgraded or switched service. Noted on the one hand that many participants weren't aware that they could contact their telco for FH assistance, but on the other that many participants were aware they could contact their provider, as their telco app had a FH or payment extension request option built in. Contact no. for financial hardship found on bills/bill reminders/overdue text messages. 	<ul style="list-style-type: none"> Make FH policy easy to <ul style="list-style-type: none"> Find; Access; and Understand. 	(out of scope) Agree that more can be done. Details expected in Std.	S / A
Proactive identification of customers who MAY be in FH. Self-ID <ul style="list-style-type: none"> The code does not require considerations of any common indicators of financial hardship, nor any requirement that suppliers consider these indicators to mean that a consumer may be in need of hardship support. 		<ul style="list-style-type: none"> Overtaken by Std. But suggest: educate consumer; look at definitions about 'getting help' - plain English, accessible. Note: (unlike for gas or electricity) a customer downgrading to a cheaper services is a reasonable and appropriate outcome. 	S / A

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		<ul style="list-style-type: none"> FH has to be about consumer “needs”, not “wants” (which telco can address – unlike gas or electricity). 	
<p>7.2.2 Options a supplier makes available to a customer</p> <ul style="list-style-type: none"> Suppliers all have different options in FH policy. Confusing for consumers. Too much flexibility given to providers in terms of the assistance measures the offer without having to take into consideration the needs and best interests of the vulnerable customer. 	<ul style="list-style-type: none"> The requirement under 7.2 must be strengthened to create an obligation for all RSPs to offer the same options in their financial hardship policy. Standardise a baseline for hardship programs across the telecommunications industry. <u>Recommendation 14</u>: Code should be more prescriptive about the assistance options telcos must offer to consumers experiencing or anticipating payment difficulty. <u>Recommendation 15</u>: The Code should explicitly require mandatory assistance options to be available to all of a telco's consumers, irrespective of the telco's system limitations (such as those imposed by the telco's choice of billing system). <u>Recommendation 16</u>: Minimum requirement that telcos offer the following options for payment assistance <ul style="list-style-type: none"> a) Consumers pay off debt in regular manageable instalments over an appropriate period of time on their individual circumstances (including long-term payment arrangements in excess of 12 months). 	<ul style="list-style-type: none"> overtaken by Standard. But suggest, that we may be able to look at categorising wording to get some kind of consistency, while ensuring the options will appropriately work for both parties, understanding that different products/providers will have different options that make sense for their product, and that need something that matches customer's needs. Ideally, want conversation with the customer to help them remain in control. Note: Many of options listed (1-7) already happen. See also comments regarding definition. Re (7), agree. DC to investigate sales incentive issues. 	<p>A</p> <p>See May package</p>

4. Financial Hardship – NOTE: Most of this is now out of scope with the impending introduction of a FH Standard.			
Summary of issues raised	Submitters' suggested remedies	Drafting committee (DC) June 2023 response	Status check (May 2024) (A= Addressed; S = Superseded or out of scope; R = revisit)
	<p>b) Reduce consumer's ongoing charges for an appropriate period of time (eg. to allow them to overcome a temporary financial shock).</p> <p>c) Option to cancel services or transfer to less expensive plans (including prepaid) without paying cancellation fees.</p> <p>Additionally</p> <ol style="list-style-type: none"> 1) Late payment fees should be waived for customers in financial hardship; cancellation fees should be waived for customers in serious hardship. 2) Flexible payment options including: extensions to payment times; payments to be made in instalments over longer period; incentives for making payments; low cost interim options until the customer can continue with original payments; payment vouchers distributed to clients by financial counsellors. 3) Hard caps and shaping. 4) Restructuring of customer's account. 5) Transferring the customer to pre-paid services. 6) Releasing a customer from their debt in situations where their financial hardship is entrenched. 	<p>®</p>	

4. Financial Hardship – NOTE: Most of this is now out of scope with the impending introduction of a FH Standard.			
Summary of issues raised	Submitters' suggested remedies	Drafting committee (DC) June 2023 response	Status check (May 2024) (A= Addressed; S = Superseded or out of scope; R = revisit)
	7) When a provider has been found to have used irresponsible sales, practices, a customer's debt should be waived.		
7.2.2 Options a supplier makes available to a customer <ul style="list-style-type: none"> Need flexibility for consumer 	<ul style="list-style-type: none"> Increased flexibility in the application of entry criteria for financial hardship arrangements Providing concessions for those on low incomes Offering financial hardship arrangements that are flexible and tailored to individual circumstances. This includes flexible approaches to billing and bill payment – including increased payment options that are free (other than direct debit) and allowing customers to part-pay their bills linked to their income payment frequency 	(out of scope) Financial Hardship Standard. Payment issues for RC discussion. Some parts of this for TCP payments chpt.	S
7.4 Fair and timely FH assessment	The TCP Code does not prescribe what factors should be considered in assessing a customer's eligibility for FH assistance or what staff training would be appropriate in these circumstances.	Overtaken by Financial Hardship Standard.	S
7.6.1 Requires telcos to provide flexible repayment options that meet a consumer's individual circumstances "where possible."	The code should require telcos to provide tailored assistance for consumers experiencing or anticipating payment difficulties.	Overtaken by Std.	S
Clause 7.6.4 only requires telcos to "review" an existing arrangement if a consumer advises that their circumstances have changed.		Overtaken by Std. But consider where relevant in responsible sales [®]	S / A
7. Fin Hardship policy for pre-paid Confusion over whether pre-paid services should have a FH policy		Overtaken by Std. But consider the purpose - pre-paid is one option for managing/preventing financial harm + does not create ongoing risk of debt.	S
7.7 Credit Management in FH		Out of scope <ul style="list-style-type: none"> Enforcement issue. 	S

4. Financial Hardship – NOTE: Most of this is now out of scope with the impending introduction of a FH Standard.			
Summary of issues raised	Submitters' suggested remedies	Drafting committee (DC) June 2023 response	Status check (May 2024) (A= Addressed; S = Superseded or out of scope; R = revisit)
Existing incentives to comply with the requirement to suspend credit management action for financial hardship customers may not be working adequately		<ul style="list-style-type: none"> The fact that action was taken for breach of code arguably shows it is working. For the purpose of this review, this is out of scope/not actionable 	
Contact phone number for customer Advocates for FH Only 2/11 providers had a separate dedicated phone number for customer advocates for financial hardship customers.	Having a direct phone number for customer advocates makes it easier for advocates to facilitate fair outcomes for consumers when they need help.	(likely out of scope - Standard) <ul style="list-style-type: none"> Agree that it must be easy for customers/customer advocates to get assistance. Suggest requirement should be for a direct CHANNEL (rather than phone) for customers or their advocates to contact telcos re clients' FH issues – as appropriate for the business. 	S
Best plan for circumstances The code lacks requirement of providers to consider if FH consumers are on the best plan for their circumstances.	It therefore does not also take into consideration whether the consumer is eligible to receive an ongoing or long-term lower cost offer due to holding a relevant concession card such as a healthcare card, a student card, or a seniors card.	<ul style="list-style-type: none"> This is a natural conversation where there's identified FH. If it needs to be better spelt out, prob now a discussion for the Std. (NB: it's already a requirement where a customer fails a credit check). DC to look at incl. in responsible selling and sales training sections of Code. 	A
<ul style="list-style-type: none"> ACMA's research indicated majority of participants had their bill payments deferred or extended, with only a small portion being put onto a FH arrangement. Consumers who experienced difficulties or concerns with their telco bills did not fully 	Telcos need to better explain the different forms of assistance to customers and provide more flexibility in applying financial hardship arrangements	(likely out of scope - Standard) Definitional issue. Note: Many customers find that they can adequately manage their finances by using the numerous other options available to them	S

4. Financial Hardship – NOTE: Most of this is now out of scope with the impending introduction of a FH Standard.			
Summary of issues raised	Submitters' suggested remedies	Drafting committee (DC) June 2023 response	Status check (May 2024) (A= Addressed; S = Superseded or out of scope; R = revisit)
understand the difference between payment plans, payment extensions and financial hardship arrangements. This may, in part, explain why not many participants requested financial hardship arrangements.		outside of formal FH arrangements. We disagree with the deductions made.	
<ul style="list-style-type: none"> Financial Hardship Current protections in other essential service sectors - National Energy Customer Framework (NECF)/ National Energy Retail Regulations (NERR)(SA) Act 2011. And Water Industry Competition (General) Regulation 2021, it is a licence condition for providers to establish a code of practice for debt recovery that must provide for the deferment, in whole or in part, of payments owed by customers suffering financial hardship. Many existing telco safeguards are built on a legislative framework developed at a time when telco was not an essential service - there was not the diverse range of service providers there are now. 		(Out of scope - Standard)	S

5. Training/Policies/Vulnerable Consumers

Summary of issues raised	Submitters' suggested remedies	Drafting committee (DC) June 2023 response	Status check (May 2024) (A= Addressed; S = Superseded or out of scope; R = revisit)
<p>Training - Vulnerable Consumers. (Code s3.3) There is currently no requirement in the code for customer service staff that deal with the needs of vulnerable customers.</p>	<p>The following paragraph should be added to Chapter 3 - 3.3.6: "Suppliers must ensure that customer service staff receive training to deal with disadvantaged and vulnerable customers, and are able to deal with disadvantaged and vulnerable customers appropriately."</p>	<ul style="list-style-type: none"> This is from an old sub - appears to have been picked up in 2019 review. But revised code to include enhanced training requirements for vulnerable consumers. 	<p>A</p>
<p>Staff Conduct (Code s3.3.4)</p> <ul style="list-style-type: none"> TIO has received complaints from consumers who say their telco's staff were rude to them when they made a complaint or enquiry. A more general obligation for telcos to prevent staff from engaging in rude, harassing, or misleading conduct towards consumers is appropriate and would assist TIO in handling complaints about this behaviour. 	<p>The Code should include a general obligation for telcos to prevent their staff from engaging in rude, harassing, or misleading conduct towards consumers.</p>	<ul style="list-style-type: none"> This is currently covered in general training /expectations - focussing on positive engagement. However, DC will make sure the intent is appropriately conveyed in relevant sections of the revised code. – e.g. to ensure revised Code continues to include a requirement for positive staff conduct. (e.g. in training, sales chapters) 	<p>A</p>
<p>DFV Welcome the recent steps taken by industry to address DFV issues through the Assisting Consumers Affected by Domestic and Family Violence Guideline but consider that that direct regulation is required.</p>	<p>The code should include mandatory protections for DFV. The code should include at minimum:</p> <ol style="list-style-type: none"> Binding DFV policy that clearly sets out how it will identify and assist consumers experiencing DFV. All telco staff/managers receive ongoing training in how to assist consumers experiencing DFV. Secure process to assess and identify whether a consumer is 	<p>DC to include DFV-specific provisions in TCP Code to codify key elements of recently revised Guideline, as per its announcements in the discussion paper and on release of the updated guideline [®]</p> <p>NOTE</p> <ul style="list-style-type: none"> CA has already clearly announced its intent to codify key clauses. (This intention was made public in the discussion paper and when the updated guideline was released in 	<p>A</p> <p>We have put in everything in the Code that experts in the field advised us should be mandatory provisions when we were drafting the Guideline (as we undertook to do). However, as with other issues, we welcome specific feedback on anything else we may have missed or can strengthen. For example, a</p>

5. Training/Policies/Vulnerable Consumers			
Summary of issues raised	Submitters' suggested remedies	Drafting committee (DC) June 2023 response	Status check (May 2024) (A= Addressed; S = Superseded or out of scope; R = revisit)
	<p>affected by DFV, that avoids the need for the consumer repeatedly disclose or refer to their experience.</p> <p>d) Consider the impact of any service suspension or disconnection for the consumer before starting credit management or debt collection activity.</p> <p>e) Prohibiting telco from requiring consumer to communicate with or disclose info about a perpetrator of DFV against them as part of dealing with an enquiry.</p>	<p>May 2023, as well as directly to all stakeholders that were thoroughly consulted as part of that Guideline's development – incl. CALC, EARG, etc). This will include provisions covering all the key areas mentioned.</p> <ul style="list-style-type: none"> • Note that it is important to understand where and why problems arise in order to properly address them in this very complex, fraught area. That is why we have invested considerable time in reviewing and revising the guideline (<i>and its interplay with other effectively contradictory requirements in other instruments</i>). • Further, changing processes, reviewing policies, updating training etc to take account of new guidelines takes time - effectiveness cannot be judged on problems experienced before the new guideline was even complete. • Note also that rights of use (ROU) issues have been specifically addressed in ROU Code (registered June 2023). (And see also SFOA comments below.) 	<p>stakeholder has already suggested including a specific prohibition on the CSP requiring the victim to interact with the alleged perpetrator to manage a transaction (the focus as currently drafted is slightly less specific). The DC has already agreed that this is a good suggestion and will include wording in the next iteration.</p> <p>There is no question that all stakeholders agree on the desired outcomes for victim-survivors. As noted (left), this is a very complicated area, especially in the telco space, and it requires all stakeholders to work together towards collaborative solutions. And to continue to work together to identify the root of any problems, and to address them, and to address any new issues that come to light as technology – or abuse – evolves. (We have already updated the Guideline 3 times in a year.)</p> <p>In addition to the specifics, the Code rules require CSPs to have policies and procedures to manage DFV in a way that makes sense for its staff and customers</p>

5. Training/Policies/Vulnerable Consumers

Summary of issues raised	Submitters' suggested remedies	Drafting committee (DC) June 2023 response	Status check (May 2024) (A= Addressed; S = Superseded or out of scope; R = revisit)
		®	<p>(accommodating different product offerings, allowing flexibility to work with the affected person, etc). The CSP's policies and procedures can be checked at various levels through the auditing processes. This allows for continual improvement and education where appropriate, and enforcement where egregious errors have been made.</p> <p>This co-regulatory approach allows for a more comprehensive solution than the blunt mechanisms afforded through direct regulation, with a far more comprehensive check of compliance than the ACMA could achieve alone. Combined with the collaborative approach evident in the guideline development, it should lead to continual improvement and better consumer outcomes than we believe could be achieved through any other regulatory approach.</p>
<p>DFV</p> <ul style="list-style-type: none"> Unenforceable protections for consumers experiencing family violence. 		<p>A guideline's role is to provide guidance on best practice. It is not the correct instrument for mandatory obligations.</p>	<p>See DC comments column. And notes above</p>

5. Training/Policies/Vulnerable Consumers

Summary of issues raised	Submitters' suggested remedies	Drafting committee (DC) June 2023 response	Status check (May 2024) (A= Addressed; S = Superseded or out of scope; R = revisit)
<ul style="list-style-type: none"> The code refers to Communications Alliance publication, <i>Assisting Customers Experiencing Domestic and Family Violence Guideline</i>, which is voluntary meaning little incentive to embed improved practices. Remaining connected is crucial for consumers experiencing DVF, affecting their ability to communicate with their support network and other specialist services. 		<p>We made clear our intent from the start our intention to mandate the key clauses (per expert stakeholders' advice) through the TCP Code. The guideline is an invaluable tool for CSPs to use to understand and work out the best way to give practical effect to the mandatory provisions. The different instruments together absolutely provide incentive to towards improved practices.</p> <p>As for keeping connected, yes, it is critical for most victim-survivors, but it is not appropriate to ban disconnection of victim-survivors outright, as has been suggested by some. The victim-survivor must be supported to do what they consider safe in the situation, which MAY be to disconnect. This is all explored in detail in the guideline, couldn't be covered adequately in rules alone, and is therefore best addressed through the documents working together to support each other.</p> <p>See also comments above.</p>	
<p>DFV - vulnerable consumers</p> <ul style="list-style-type: none"> ACMA SOE review makes recommendations for CSPs dealing with vulnerable customers, however IAA advise that this is already dealt with in clause 3.4 of the TCP code in the commitment under the Introductory Statement. 	<p>If considered necessary to include specific provisions on protections for affected customers, IAA recommend that it refers CSPs to the G660 Guidelines and recommends the implementation measures as necessary and appropriate for the business.</p>	<p>See above</p>	<p>See above</p>

5. Training/Policies/Vulnerable Consumers			
Summary of issues raised	Submitters' suggested remedies	Drafting committee (DC) June 2023 response	Status check (May 2024) (A= Addressed; S = Superseded or out of scope; R = revisit)
<ul style="list-style-type: none"> The Code should avoid the duplication of obligations. 			
<p>DFV - new provision to enable the CSP to terminate the ROU of a DFV perpetrator in compliance with cl 4.3.3 of the Use of Numbers Code C566.</p> <p>i.e. to make it clear that an RSP will not be breaching other requirements (ROU) in terminating a DFV perpetrator. (An issue of conflicting obligations that CA identified and addressed.)</p>	Consider adding a requirement to make clear that use of a service in relation to DFV will be seen as a breach of SFOA/T&Cs for a service	Agree – add requirement in SFOA as suggested	A
<p>Selling policies/ Sales incentives (vulnerable)</p> <ul style="list-style-type: none"> Many consumers can choose suitable services for themselves, but need more consumer safeguards at POS to protect vulnerable consumers who are less capable of making sound decisions. There should be improved practices and measures to limit the frequency with which consumers are signed up to unsuitable products. 	<ul style="list-style-type: none"> There needs to be ethical selling practices; Staff incentives that are aligned with long-term interests of the customer; Improved information at point of sale; and Robust credit assessment. RSPs need flexible and sensitive hardship programs. 	<ul style="list-style-type: none"> Agree with outcome /intent. DC to strengthen provisions regarding responsible and fair selling and addressing upselling/mis-selling. Re credit assessment - revisit while balancing privacy issues. 	A
<p>Selling/bundles</p> <ul style="list-style-type: none"> Selling practices are pushy Bundles are complicated and confusing. 	<p>The following words should be added to 4.6.2:</p> <ul style="list-style-type: none"> “The supplier must actively take account of customer circumstances and provide information about appropriate products and services, including lower/all cost options.” 	<ul style="list-style-type: none"> Helping customer to choose the most appropriate product for them can be practically achieved through plain-English[®] info and advertising. DC will review and strengthen as required, requirements for training, policies on appropriate selling, and credit assessments, with extra 	A

5. Training/Policies/Vulnerable Consumers

Summary of issues raised	Submitters' suggested remedies	Drafting committee (DC) June 2023 response	Status check (May 2024) (A= Addressed; S = Superseded or out of scope; R = revisit)
		protections for vulnerable consumers.	
<p>Selling policies/ Sales incentives (vulnerable) (Code s4.5) Unsolicited tele sales of inappropriate products are an enduring cause of</p> <ul style="list-style-type: none"> • confusion, • distress, and • hardship, particularly amongst our most vulnerable clients. 	<ul style="list-style-type: none"> • Recommendation 1: Unsolicited sale of telecommunications products and services should be prohibited by the TCP Code. • Recommendation 2: The TCP Code be amended, to incorporate a new clause under the heading 'unsolicited sales' that provides in respect of unsolicited tele sales - <ul style="list-style-type: none"> 1) Opt in option at the conclusion of cooling off period provided by the ACL. 2) Minimum requirements for informed consent to unsolicited transactions. 3) Providers retain a recording of the complete telemarketing call. • If recommendation 1+2 are not adopted recommendation 3+4 should be adopted. 	<ul style="list-style-type: none"> • Noting that unsolicited sales is regulated under Consumer Law, the ACCC may wish to comment. • DC to consider appropriate remedies for customers (e.g. the right to cancel services with reasonable proof of medical issues/ incapacity at the time of sale.). 	<p>A</p> <p>See also comments in 2024 Comment Log</p>
<p>Credit Assessment Not recognising where a customer can't afford to pay.</p>	<ul style="list-style-type: none"> • We would like to see sales staff better equipped to handle situations where they may think a consumer will be unable to meet the financial obligations of a product. • Staff should be empowered to identify, where possible, signs of vulnerability 	<p>DC to look at this in relation to risk to consumer and to consider appropriate mechanisms to address the risk (e.g. through responsible selling and credit assessments). Note: Code must carefully balance obligations not to discriminate and</p>	<p>A</p> <p>Credit assessment requirements strengthened.</p>

5. Training/Policies/Vulnerable Consumers			
Summary of issues raised	Submitters' suggested remedies	Drafting committee (DC) June 2023 response	Status check (May 2024) (A= Addressed; S = Superseded or out of scope; R = revisit)
	<p>that may impact the consumer's capacity to pay.</p> <ul style="list-style-type: none"> This, alongside changing the culture of inappropriate, incentive-based selling practices, is an important step in reducing the frequency of telco-related debt, especially for vulnerable consumers. 	<p>expectation that CSPs will provide access to services.</p>	

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6. Privacy/ Information Retention/ Records

Summary of issues raised	Submitters' suggested remedies	Drafting committee (DC) response	Status check (May 2024) (A= Addressed; S = Superseded or out of scope; R = revisit)
<p>3.7 Personal information</p> <ul style="list-style-type: none"> Barriers to access of documents erected by providers include <ul style="list-style-type: none"> procedural hurdles; delays; and fees. Despite the statutory requirement under the APP to provide documents, there is significant resistance across the industry to provide documents when sought. 	<p>The TCP Code should require telco providers to provide basic documents relevant to the dispute and other personal information:</p> <ol style="list-style-type: none"> Without onerous procedural hurdles; Within 14 days, or 30 days where the document is older than 12 months of request; Free-of-charge or, alternatively, free for a copy of contracts, correspondence, call records or client interaction notes. If fees are to be levied for the provision of documents, the TCP Code should specify what fees may be levied and how. 	<p>Access to account information clauses cover this in a way that complies with Privacy Act and ID Determination.</p> <p>The DC suggests it reconsiders the inclusion of timeframes once the PA review is complete.</p>	<p>A</p> <p>Updated account information clauses. Is clear on costs.</p>
<p>3.7 Personal Information</p> <p>Suppliers use of personal information under the Code should be aligned with the Privacy Act and Part 13 Telco Act</p>	<p>Expressly state that a supplier who receives personal information under the Code must use the information only in accordance with the Privacy Act and Part 13 of the Telecommunications Act.</p>	<p>For discussion with Review Committee</p>	<p>A</p>
<p>3.7 Personal Information</p> <ul style="list-style-type: none"> Consider broader external environment and community concerns including risk around <ul style="list-style-type: none"> Data breach; and Identity theft. Give detailed considerations whether the collection of retention of PI under the TCP Code remains necessary and appropriately calibrated against these types of security risk, and meet community expectations. Introducing specific provisions that mandate how CSPs deal with vulnerable customers will 	<ul style="list-style-type: none"> Consider reducing collection of data as far as practicable and appropriate, look to establish a general baseline that ensures customers sufficient protection, regardless of their vulnerability status. This will not be possible in all areas, there should be greater work done to assess the best method in affording vulnerable customers best practice, which includes utmost respect for their privacy which can have a disproportionate effect on vulnerable 	<ul style="list-style-type: none"> Agree that privacy issues are current and increasing problem. Note tension between different stakeholders' positions - this contradicts calls from ACMA/TIO to collect and keep more to prove compliance/address complaints. 	<p>A</p> <p>Refer to new drafting. We additionally suggest that this section be reviewed once the Privacy Act review is progressed to the next stage.</p>

6. Privacy/ Information Retention/ Records

Summary of issues raised	Submitters' suggested remedies	Drafting committee (DC) response	Status check (May 2024) (A= Addressed; S = Superseded or out of scope; R = revisit)
<p>give rise to added privacy concerns which can also pose more risks for those customers.</p> <ul style="list-style-type: none"> This gives rise to even greater compliance obligations for CSPs with respect to the Privacy Act and would place vulnerable customers at even greater risk in the unfortunate event of a data breach incident, should one occur. 	<p>customers, as well as the implications on compliance obligations for CSPs.</p>		
<p>3.7.2 - Protection of PI</p> <ul style="list-style-type: none"> Clause 3.7.2 could be amended to more closely align with APP 11.1. The TCP Code requires suppliers to collect PI about customers, which may include: <ul style="list-style-type: none"> Financial information; and Biometric data in the form of voice recordings. Given the objective of the clause and the significant personal information that may be collected by suppliers who are not subject to the Privacy Act, there need to be changes to clause 3.7.2. 	<p>Clause 3.7.2 be amended to more closely align with APP 11.1, which provides:</p> <ul style="list-style-type: none"> "If an APP entity holds personal information, the entity must take such steps as are reasonable in the circumstances to protect the information: <ol style="list-style-type: none"> from misuse, interference and loss; and from unauthorised access, modification or disclosure." 	<ul style="list-style-type: none"> DC looking at alignment in relation to suggested amendments (see earlier comments) 	<p>A</p> <p>Covered in drafting</p>
<p>4.6.5 retention of records/protection of PI</p> <ul style="list-style-type: none"> It is unclear whether these retention periods are commensurate with the length of time that a customer may reasonably require access to the information and therefore, whether the periods are compliant with APP 11.2, which requires personal information to 		<ul style="list-style-type: none"> Recognise the concern. Are looking to address through guidance – working through detail with the RC. 	<p>A</p> <p>New drafting links retention to specific obligations to retain data. Further feedback welcomed.</p>

6. Privacy/ Information Retention/ Records

Summary of issues raised	Submitters' suggested remedies	Drafting committee (DC) response	Status check (May 2024) (A= Addressed; S = Superseded or out of scope; R = revisit)
<p>be destroyed or de-identified when it is no longer reasonably necessary.</p> <ul style="list-style-type: none"> • Same point made re billing, service transfers 			
<p>4.6.5 retention of records/protection of PI</p> <ul style="list-style-type: none"> • There is not enough data kept to assess non-compliance or complaint. 	<ul style="list-style-type: none"> • The code should contain explicit obligations for telcos to retain all records relevant to the sale for 24 months for marketing activities or for the duration of the contract. • The code should require telcos to keep contractual info relevant to a sale for the duration of the contract + 24 months following its expiry, and should incl. (where relevant): <ul style="list-style-type: none"> • The physical written contract a consumer signs, • a call recording of the conversation where a consumer agrees to a contract over the phone, or a transcript of the webchat where the consumer agrees to a contract. • Adopt the energy sector's retention of records in relation to market activities (Rule 68 of the National Energy Retail Rules - Record Keeping). 	<ul style="list-style-type: none"> • Balance issues of retention vs keeping too much. • discuss with RC 	<p>A</p> <p>New drafting attempts to reach reasonable balance understanding discussions on both sides.</p> <p>Further feedback welcomed.</p>
<ul style="list-style-type: none"> • Clauses 3.7 and 3.8 (if kept) need updating in light of the Customer ID Determination 		<ul style="list-style-type: none"> • DC to review and update as appropriate 3.7 and 3.8 in light of the ID Determination • This section may be deleted or reformed to align with the Privacy Act. 	<p>A</p>

6. Privacy/ Information Retention/ Records			
Summary of issues raised	Submitters' suggested remedies	Drafting committee (DC) response	Status check (May 2024) (A= Addressed; S = Superseded or out of scope; R = revisit)
<p>PI - breaches/detecting unauthorised access</p> <ul style="list-style-type: none"> The obligations set out at Clause 3.7.2(a)-(c) could be enhanced by being framed as a non-exhaustive list of actions that an entity can take to ensure it complies with its APP obligation. The provision also includes obligations for entities to: <ul style="list-style-type: none"> a) ensure that they have systems and procedures in place for detecting unauthorised access; and b) have a data breach response plan. A data breach response plan enables an entity to respond quickly to unauthorised access or disclosure or loss of personal information. By responding quickly, an entity can substantially decrease the impact of a breach on affected individuals, reduce the costs associated with dealing with a breach, and reduce the potential reputational damage that can result. 		<ul style="list-style-type: none"> Amend 3.7 to align with PA. For discussion with RC. 	<p>A</p> <p>Updated in line with suggestions – welcome feedback on drafting</p>
<p>Privacy Breach - 3.7(c) clarification</p> <p>Clause 3.7 is intended to apply to CSPs not subject to the Privacy Act 1988 but the clause does not otherwise mandate those CSPs comply with the Privacy Act in its entirety. As such, the provision that staff must be made aware that they will face disciplinary action for failing to comply with the Privacy Act when the legislation does not apply to the business does not seem appropriate.</p>	<p>Make clause clearer.</p>	<p>See above – agree. Suggested amendment drafted for discussion with RC.</p>	<p>A</p>

6. Privacy/ Information Retention/ Records

Summary of issues raised	Submitters' suggested remedies	Drafting committee (DC) response	Status check (May 2024) (A= Addressed; S = Superseded or out of scope; R = revisit)
<p>9. Changing Suppliers 9.7.1 Records regarding Timeframes: It is unclear whether these retention periods are commensurate with the length of time that a customer may reasonably require access to the information , and therefore, whether the periods are compliant with APP 11.2, which requires personal information to be destroyed or de-identified when it is no longer reasonably necessary.</p>		Under review and discussion with RC.	<p>A</p> <p>Timeframes updated – welcome further feedback</p>
<p>General rules record retention requirement 3.5.1 (c) and (e)</p> <ul style="list-style-type: none"> How long is this record expected to be kept? 		<ul style="list-style-type: none"> Reviewing – approach to keeping records for discussion w RC. 	A

7. Advertising/ Sales/ CIS			
Summary of issues raised	Submitters' suggested remedies	Drafting committee (DC) response	Status check (May 2024) (A= Addressed; S = Superseded or out of scope; R = revisit)
<p>s4.1 Advertising</p> <ul style="list-style-type: none"> Although telcos prominently advertise service plans that are month-to-month with no exit fees, it is not nearly as clear to consumers that if they combine a device on a contract (12, 24, 36 months) with that plan, cancellation of the short-term service plan will usually also cancel the device contract. The consequence is that the total remaining device cost (potentially \$1,000+) can be due in the next payment, which can cause considerable difficulty for some consumers. 		<ul style="list-style-type: none"> Agree. Updates required. Information to be included to make any bundling obligations clear Action as drafting: DC to review requirements and consider putting examples in TCP Code for clarity (and to recognise the FH link). 	A
<p>4.2 Critical Information Summaries (CIS)</p> <ul style="list-style-type: none"> Outdated/does not take into consideration vulnerable consumers. Lacks information on the role of the ACCC (no links to ACCC resources on consumer rights under ACL). No explicit requirements to contain information about: <ul style="list-style-type: none"> If a plan is paid upfront/in-advance or post-paid; What payment options are available and whether direct debit is the only option; If direct debit or other auto-payment is required or used, when will the payment be taken; and The billing consequences for cancelling a plan (including a month-to-month plan) 	<ul style="list-style-type: none"> Include information on the role of ACCC + links to their resources on consumers rights under the ACL. <ol style="list-style-type: none"> Review to reflect the changes in telco plans and payment methods. There should be no distinction about obligations applying to post-paid or pre-paid plans. Billing information, ensure clear so that consumers understand what their charges will be, what their payment options are, and when payment will occur. Further, it depends on high levels of transparency on the part of regulated entities being clear about how they are achieving the desired outcome both in terms of describing systems and processes, but also determining 	<ul style="list-style-type: none"> Agree that CIS requirements need updating. There is tension between demands for the CIS to contain more information, and for it to be shorter, more succinct etc. There were lengthy deliberations about this in 2012 and it was agreed to limit it to 2 pages. DC suggests that just referencing TIO is appropriate - they can and do refer consumers to ACCC and ACMA. <p style="text-align: center;">®</p>	<p>A</p> <p>See comments in 2024 log and May package cover letter addendum.</p>

7. Advertising/ Sales/ CIS

Summary of issues raised	Submitters' suggested remedies	Drafting committee (DC) response	Status check (May 2024) (A= Addressed; S = Superseded or out of scope; R = revisit)
<p>when the plan is combined with device repayments.</p>	<p>and reporting on performance metrics that demonstrate compliance.</p>		
<p>4.2 CIS & advertising, sales</p> <ul style="list-style-type: none"> • Availability and visibility of online information about telco products and services is not consistently well presented. • Advertising and point-of-sale information does not always cover key terms. • Difficult to find and understand online information about telco products and services. • Consumers complained that they were not directed to a CIS or terms and conditions during online sign-up, couldn't find them online, or needed to visit multiple pages. • The requirements about where to place online links to a CIS, or their prominence on a telco website, are relatively loose. Currently, links to CIS must be put 'where the supplier advertises the offer on the supplier's website', which gives discretion for a telco to comply, yet still make the CIS possible to overlook. 	<ul style="list-style-type: none"> • NBN Key Facts Sheets are more prescriptive and have ensured that compliance is likely to lead to consumers finding this information more easily. • Telcos should ensure that consumers can easily find information about each of their products and that the information is transparent, accurate, complete, relevant, and up to date. • The CIS should be prominently available on their websites and in-store. • Customers should also be told about the CIS and where to find them in sales conversations over the phone or via online contact methods. • Any redundant information should be removed. 	<ul style="list-style-type: none"> • Agree. DC to replace current code wording at 4.2.6 with wording from NBN factsheet requirement: <ul style="list-style-type: none"> • [A CSP must] 'make its key fact sheets available on its website via hyperlinks that are prominently displayed, and in close proximity or set out adjacent to the full description of the relevant NBN consumer plan.' • (Note: Need to be mindful of 'version control' for archived CISs – all stored and dated for easy access – publication and prominence is different for current offers • See 7(1)(c). 	<p>A</p>
<p>CIS not being explained.</p> <ul style="list-style-type: none"> • Critical information contained in the T&Cs of plans and contracts is not being fully explained – leading to consumers into FH. • T&Cs are complex therefore hard for consumers to understand their contract. 	<ul style="list-style-type: none"> • Critical Information Summaries need to be updated and set out in plain English, and include the total cost of the plan, any fees or charges over the life of the plan and when consumers can expect those increases. 	<ul style="list-style-type: none"> • DC to insert clauses in Code to appropriately capture need to direct customers to T&Cs & train to support vulnerable customers. • Include plain language requirements Look at first 3 points when reviewing Code to ensure 	<p>A</p> <p>See also 2024 comment log</p>

7. Advertising/ Sales/ CIS			
Summary of issues raised	Submitters' suggested remedies	Drafting committee (DC) response	Status check (May 2024) (A= Addressed; S = Superseded or out of scope; R = revisit)
<ul style="list-style-type: none"> Consumers are being caught off-guard by changes in terms or conditions, changes in plans or staff in-store not explaining contracts. One of the main reasons that participants did not have a detailed understanding of their telco plan was that they did not read through the terms and conditions in detail, if at all. Consumers also expressed that the salesperson in store did not explain the T&Cs of the contract but rather told them to read the document directly (which is challenging due to the length/language/complexity of the T&Cs). 	<ul style="list-style-type: none"> Current obligations and expectations of staff, particularly those in store, need to be adjusted to ensure consumers can be properly informed of their options and what they are committing to, and treated with respect when seeking assistance. During the sales process, telcos must give consumers key information that is easily understood about the T&Cs of their products. They must also direct consumers to the CIS before a sale (or just after if it is not possible to provide the CIS beforehand for practical reasons) CIS is made available in translated form in Mandarin, Arabic, Vietnamese, Cantonese, and Punjabi, which represent the top 5 most common languages other than English spoken in Australia. 	<p>they are reasonably captured in the code in selling, training etc.</p> <ul style="list-style-type: none"> Re languages, note that consumers can and are supported through use of advocates/translators. See comments also in accessibility, language tab. 	
<p>Customer contracts (4.6)</p> <ul style="list-style-type: none"> Providers aren't obliged to give customers full contract except on request. 	<ul style="list-style-type: none"> The code should contain clear obligations for telcos to give consumers written information showing the entire content of their agreement at the time they sign up for services, and for telcos to retain this information 	<ul style="list-style-type: none"> Details are contained in SFOA, CIS (which are required already). But they may not be all in one place, which we agree may not be easy for customer. DC to draft Code requirement to capture idea that customers must receive, at time of sale, information relating to their contractual obligations. This must be all in one place. 	A

7. Advertising/ Sales/ CIS			
Summary of issues raised	Submitters' suggested remedies	Drafting committee (DC) response	Status check (May 2024) (A= Addressed; S = Superseded or out of scope; R = revisit)
<p>4.3.1(g) Network coverage</p> <ul style="list-style-type: none"> Vague and may not operate consistently to provide accurate and useful coverage info to consumers. Different telcos may use different descriptors for coverage levels, which makes it difficult for consumers to accurately compare coverage information supplied by different telcos. 	<ul style="list-style-type: none"> Requirement for telcos to supply clear and accurate information about network coverage levels for mobile services. This should include an obligation for coverage info to be supplied in a standardised format, to assist consumers when comparing telcos. 	<ul style="list-style-type: none"> The proposed solution is impractical in that one has to be plugged in and connected to test, even if there's theoretically coverage. However, agree with goal. Proposed requirement for coverage check. Terminology flagged. 	<p>A</p> <p>Refer to 2024 Log and May package</p>
<p>Mis-selling (s4)</p> <ul style="list-style-type: none"> Clearer remedies for misleading sales conduct and other poor sales practices. Under 4.4 remedies available for inaccurate sales info involve the telco giving the consumer accurate or corrected info, or otherwise 'appropriate'; remedy. Lack of clear obligations to offer specific remedy means telcos may misinterpret what an appropriate remedy is for the consumers' particular circumstances. TIO bases its decisions on what a consumer is entitled to where they entered a contract relying on misleading info from their telco based on: - remedies available misleading conduct under ACL; what is fair and reasonable in the consumer's circumstances. e.g. cancel contract w/o termination fees; or (in some circumstances) receive a refund of charges paid). 	<ul style="list-style-type: none"> Include specific remedies in Code where a consumer is induced to buy a telco product by incorrect or misleading info from the telco. Include additional specific remedies modelled on those available under the ACL for breach of its prohibitions against misleading, deceptive and unconscionable conduct. 	<p>DC to look at drafting re:</p> <ul style="list-style-type: none"> Reporting and training obligations linking back to ACL, Obligation to monitor for potential mis selling & requirement to act to change sales practices and training where issues are identified, When miss selling is identified, RSPs must take steps to remedy. <p>®</p>	<p>A</p>

7. Advertising/ Sales/ CIS

Summary of issues raised	Submitters' suggested remedies	Drafting committee (DC) response	Status check (May 2024) (A= Addressed; S = Superseded or out of scope; R = revisit)
<p>4. Advertising, Sales, Contracts, and Customer Service</p>	<ul style="list-style-type: none"> Update to increase the alignment with the Broadband Speed Claims Guidance. 	<ul style="list-style-type: none"> Agree. Update as suggested. 	A
<p>4. Advertising, Sales, Contracts, and Customer Service</p> <ul style="list-style-type: none"> 4.1.4 requirements are not clear. The circumstances where a Special Promotion does not have a set end date (although practically we note it is likely to be offers of limited quantity); and How suppliers should address changes to set end dates for a special promotion. 		<ul style="list-style-type: none"> DC to clarify requirements in drafting Must be clear to the customer. 	A
<p>4. Advertising, Sales, Contracts, and Customer Service</p> <ul style="list-style-type: none"> Clause 4.2.5 currently requires that the CIS is supplied for the underlying Offer on which the Special Promotion is based. However, as it can be challenging to determine when a CIS is to apply we would recommend this clause is revised to provide clarity as to when a CIS is and is not required. 		<ul style="list-style-type: none"> DC to clarify requirements in drafting Must be clear to the customer. 	A
<p>4.2.8 When to provide CIS</p>	<p>Clarify that a Supplier will satisfy its requirements to provide a CIS by:</p> <ul style="list-style-type: none"> (for non-phone sales) providing a link to the CIS during the sales process; and (for phone sales) providing a link to the CIS during or (where the Consumer has opted out of receiving a CIS) after the sale has occurred. 	<ul style="list-style-type: none"> DC to make sure that it is clear in the Code what requirement is. CIS must be provided. Review. 	A

7. Advertising/ Sales/ CIS

Summary of issues raised	Submitters' suggested remedies	Drafting committee (DC) response	Status check (May 2024) (A= Addressed; S = Superseded or out of scope; R = revisit)
<p>4.3.1(e) Meaning of capacity here? Does this mean the storage capacity of a mobile device so the customer knows how many photos could be stored?</p>		<p>Review this section to see how much is still required - and review language.</p>	<p>A</p>
<p>4.3.1(h)</p>	<ul style="list-style-type: none"> Update clause to include (or reference) the obligation to provide information about 'spend management tools' under the <i>Telecommunications Service Provider (International Mobile Roaming) Determination 2019</i> The section is clarified so that it is clearer if "deactivate international roaming" is the same as the "method by which the customer may decline the continued supply of the IMR" under <i>the Telecommunications Service Provider (International Mobile Roaming) Determination 2019</i> 	<p>DC to update to align or reference without duplication.</p>	<p>A</p>
<ul style="list-style-type: none"> 4.3.1(i) Affiliation could do with some clarification. 4.3.1 (j) The references to the Codes/Guidelines are out of date. It should reference Information on Accessibility Features for <i>Telephone Equipment Code (C625:2020)</i>. The Guideline has also been withdrawn. <ul style="list-style-type: none"> (e) As all Complaints must be handled under the Standard this is not necessary to include. 	<p>Review and update/remove duplication</p>	<ul style="list-style-type: none"> Agree -DC to review. Simplify. Update. Remove CHS duplication. Review wording. <p style="text-align: center;">®</p>	<p>A</p>

8. Post Sales Support/ Customer Service			
Summary of issues raised	Submitters' suggested remedies	Drafting committee (DC) response	Status check (May 2024) (A= Addressed; S = Superseded or out of scope; R = revisit)
4.3.1 Post-sale support <ul style="list-style-type: none"> Customers need clearer, more frequent and timely information from RSPs to better understand their obligations and problem-solve regarding their contracts. 	<ul style="list-style-type: none"> (current provision: Post-sales support: details of any post-sales support for the Telecommunications Products and any fees or Charges for post-sales support.) Recommended words: Customer service staff must contact new customers after 3 billing cycles to see if the customer needs further assistance in understanding their obligations 	<p>One telco recently trialled a customer survey 3 months post sale to check in on customer. The trial is being stopped due to lack of customer response. Customer reaction has been:</p> <ul style="list-style-type: none"> - feeling overwhelmed. - annoyed with too much correspondence - inconvenient and with 2FA, concerned with spam and scam. <p>(therefore no action proposed)</p>	See DC response.
4.3.1(g) Network coverage <ul style="list-style-type: none"> The obligation to "make information available to consumers about 'the network coverage in Australia' for their mobile services" is vague and may not operate consistently to provide accurate and useful coverage info to consumers. Under the current industry practice, each telco provides coverage info in its preferred format and different telcos may use different descriptors for coverage levels. This makes it difficult for consumers to accurately compare coverage information supplied by different telcos. 	<ul style="list-style-type: none"> Should require telcos to supply clear and accurate information about network coverage levels for mobile services. This should include an obligation for coverage info to be supplied in a standardised format, to assist consumers when comparing telcos. 	<ul style="list-style-type: none"> The proposed solution is impractical in that one has to be plugged in and connected to test, even if there's theoretically coverage. However, agree with goal. Proposed requirement: Coverage check (for mobiles) required before selling service and results provided to customer in plain English about coverage available; AND requirement for CSPs to permit consumer to exit contract with no early exit fees if mobile network performance does not enable adequate service usage. <p>®</p>	See 2024 Log
Customer contact methods & support (4.7.1 (b) - long wait times – benchmarks <ul style="list-style-type: none"> Long wait times. Words in the provision such as 'keep the average wait time to a reasonable minimum 	<p>Introduce service benchmarks:</p> <ol style="list-style-type: none"> 1) Time taken to get an enquiry resolved; 2) Wait times to talk to or receive acknowledgement of an enquiry or issue 	<p>Agree with intent but service benchmark concept as a code rule is problematic for many reasons, including:</p> <ul style="list-style-type: none"> - lack of CSP control where 3rd party involved 	Proposed reporting metrics introduce transparency and competition in this area while allowing

8. Post Sales Support/ Customer Service			
Summary of issues raised	Submitters' suggested remedies	Drafting committee (DC) response	Status check (May 2024) (A= Addressed; S = Superseded or out of scope; R = revisit)
<p>in the circumstances' allows loose interpretation and therefore difficult to enforce.</p> <ul style="list-style-type: none"> Relevant customer service requirements in the TCP Code are framed around systemic actions by telcos with no timeframes for addressing a customer service issue or requirements about how customers will be kept up to date about their issue included. 	<p>(depending on the method of communication)</p> <p>3) First contact resolution for simple issues</p> <p>Recommendation:</p> <p>1) <u>Telephone contact</u>: Customer wait times to be connected to the right customer service area to handle the enquiry must be kept to a maximum of 5 minutes.</p> <p>2) <u>Live Chat</u>: an acknowledgement of enquiry within 2 mins.</p> <p>3) <u>Other contact methods</u>: email, online and social media inquiries must be acknowledged by the Supplier within one working day.</p> <p>Also: set out how customers will be kept informed about their enquiry</p>	<p>- difficulties defining what's being measured in a meaningful way, especially across different business models and products.</p> <p>However, DC to include new provisions to attempt to reach same outcomes, including reviewing/extending current requirements.</p>	<p>for the different business models and without making it a code breach for not meeting benchmarks (which may be out of the CSP's control)</p>
<p>Customer contact methods & support (4.7.1 (b)) - complaints</p> <ul style="list-style-type: none"> Taking too long 	<ul style="list-style-type: none"> Somewhere there needs to be a specification that the call handling for Billing Enquiries, where a menu is used, should include an option to discuss difficulty paying the bill and that this option receives preference in the queue. 	<p>We do not think it appropriate to direct call prioritisation as suggested. All customer enquiries are important.</p> <p>Additionally, the new FH Std covers some of this.</p>	<p>A and S. See DC response notes.</p>
<p>Benchmarks - 4.7.1 (c) First Contact Resolution</p> <ul style="list-style-type: none"> Under the TCP Code there are no rules specifically targeting the way that telcos ensure their customer service staff perform to achieve an acceptable outcome for customers 	<ul style="list-style-type: none"> Customer service performance across all communication methods should be carefully monitored and underperformance addressed quickly. 	<ul style="list-style-type: none"> Monitoring requirements are included in current[®] code at 4.7.1 – DC to review in light of comments. 	<p>A</p> <p>See DC comments, left. This is all strengthened in new drafting (throughout – incl through org</p>

8. Post Sales Support/ Customer Service

Summary of issues raised	Submitters' suggested remedies	Drafting committee (DC) response	Status check (May 2024) (A= Addressed; S = Superseded or out of scope; R = revisit)
			culture, governance rules, monitoring, training etc etc.)
<p>4.7.1 Record Keeping/4.7.2 Assessing performance</p> <ul style="list-style-type: none"> Although obligations exist in the TCP Code customer service chapter that telcos are required to collect and monitor data about their customer service performance and that customer service should be communication channel-neutral, the 2022 ACMA audit showed that telcos do not appear to be collecting this data for all contact methods. e.g. almost half of the 11 telcos included in the audit could not provide first-contact resolution data for all their communication channels. 	<ul style="list-style-type: none"> ACMA note that the proposed <u>Telco Legislation Amendment (Statutory Infrastructure Providers and Other Measures) Bill</u> would permit the ACMA to publish league tables about telcos' performance measures, including for quality of service and customer service issues. <u>The New Zealand regulator, the Commerce Commission</u>, is undertaking a project to improve retail service quality. One proposal being considered is to regularly publish a dashboard showing the relative performance of a range of customer service measures important to consumers. This is intended to improve transparency and incentivise improved customer service (which ACMA will consider once available). 	<ul style="list-style-type: none"> The DC is considering options to address these concerns and devise a way to measure this in a standardised way (noting that RKR's do not compare apples with apples and this is a problem.) note comments below re first contact resolution. 	<p>A</p> <p>Proposed reporting metrics introduce transparency and competition in this area while allowing for the different business models.</p>
<p>4.7.1(c) First contact Resolution</p> <ul style="list-style-type: none"> Consumers need to contact their suppliers multiple times to resolve a general enquiry. Leads to customers seeking EDR through TIO. 	<ul style="list-style-type: none"> Amend provision 4.7.1(c) to read as: "Ensure that simple account administrative enquiries are resolved at first contact (for example change of contact details, requests to change plans, general account enquiries)." Amend provision 4.7.1 to read as: "suppliers must deal with simple enquiries within a maximum of two working days and more complex inquiries within five working days." 	<ul style="list-style-type: none"> DC will examine where this is possible. But NOTE that there's different requirements under the ID Determination, so it's not so simple.®E.g. Changing contact details is classified as a high-risk transaction. The DC suggests that there is a role for the ACMA to do some educational work to support telcos – to educate consumers about 	<p>A</p> <p>See above comments re timeframe.</p> <p>Complaints Standard manages the complaints side of things.</p>

8. Post Sales Support/ Customer Service

Summary of issues raised	Submitters' suggested remedies	Drafting committee (DC) response	Status check (May 2024) (A= Addressed; S = Superseded or out of scope; R = revisit)
	<ul style="list-style-type: none"> Data on how long it takes to: Change or renew plans (10.4 days); updating contact details (11.3 days). 	<p>the reasons for 2FA (and explain that it's not just telcos 'being difficult').</p>	
<p>4.7.1(d) Record keeping</p> <ul style="list-style-type: none"> Consumers are required to repeat details of their complaint due to poor record keeping. Client interaction notes tend to be vague, difficult to decipher, and focused on the action (or inaction) of the provider, rather than the questions or issues raised by the consumer. (Notes are not detailed enough) 	<ul style="list-style-type: none"> Amend provision 4.7.1(d) to include the word immediately: 'Keep records of interactions between the Supplier and Customers <i>immediately</i> accessible to staff tasked with responding to such Customer Service enquiries, to aid in resolving Customer Service enquiries.' And add: 'Records should include a detailed account of the Customer's enquiry or complaint, as well as a detailed account of the advice given, and action taken, by the telecommunications provider.' 	<p>DC will review. It may be possible to devise a meaningful metric around no. of transfers/ repeat contacts. but note:</p> <ul style="list-style-type: none"> Current Code has a requirement to keep records, but they can't always be updated in real time before the transfer (and it is not always possible to do warm transfers) Technology has changed since 2018 (when comments made). Suggest focus should be on the handling of vulnerable customers (addressing safety and trauma issues relating to repeating story.) 	<p>A DC explored the issues in detail. We have attempted to draft clauses that balance the call (like this) to keep more, and the calls from other stakeholders to keep less, transfer customers quicker. see also DC response notes.</p>
<p>Metrics - Complaints in Context</p> <ul style="list-style-type: none"> There are differences between the drivers of complaints and the CIC methodology could be further improved. 	<ul style="list-style-type: none"> Use an efficiency measurement technique such as Data Envelopment Analysis (DEA). DEA works by identifying the input and output measures for a group of comparable production units. The methodology proceeds to assign a set of weights for each of the p production units that maximises the output-to-input ratio subject to the constraint that these weights make no other production unit more than 100% efficient. 	<ul style="list-style-type: none"> Revisit after code completion, when time permits (and if CIC is not superseded) It is likely reasonable to consider CIC methodology improvements and whether we can consider related metrics. We should revisit when we have time (but we can't prioritise it at this point of the review) 	<p>Metrics revised. See 2024 log/ May cover letter addendum</p>

8. Post Sales Support/ Customer Service

Summary of issues raised	Submitters' suggested remedies	Drafting committee (DC) response	Status check (May 2024) (A= Addressed; S = Superseded or out of scope; R = revisit)
<p>Barriers to consumers' ability to cancel contracts</p> <ul style="list-style-type: none"> • Difficult for consumers to cancel out subscriptions. • Forced continuity refers to design features and website navigation that impede a consumer's ability to cancel or move out of a particular service - lead to consumers keeping products or services that they no longer want or need, which may cause them financial harm. 	<ul style="list-style-type: none"> • Laws requiring business offer simple online cancellation processes should be adopted. • Examples include the <ul style="list-style-type: none"> ○ <i>National Consumer Credit Code</i> (easier credit card cancellation). ○ <i>Germany</i> enacted laws requiring businesses to implement a 'cancellation button.' on websites. The cancellation function is mandatory, and must be legible and clearly labelled. 	<p>The DC agrees that it should not be overly difficult to cancel a contract but notes that this is classified as a high-risk transaction under the ID Determinations and is therefore more complicated than the commentary suggests. The DC also notes that examples given are not from this industry.</p>	<p>See comments in DC response as well as May 2024 Cover letter addendum.</p>
<p>9. Changing suppliers</p> <ul style="list-style-type: none"> • Number of out-of-date clauses. 	<ul style="list-style-type: none"> • Review 	<ul style="list-style-type: none"> • Review & update this section & ensure it doesn't repeat Access Transfer Code requirements. 	<p>A</p>
<ul style="list-style-type: none"> • Customer contact methods & support - see also accessibility table. 			

9. Billing & Payment Methods			
Summary of issues raised	Submitters' suggested remedies	Drafting committee (DC) response	Status check (May 2024) (A= Addressed; S = Superseded or out of scope; R = revisit)
<p>5. Billing (5.2 Charging Policies and Rules, charging for bills)</p> <ul style="list-style-type: none"> Need clear bills and a choice of flexible payment methods. Consumers should be entitled to receive an accurate, itemised bill in all circumstances. Code requires telcos to issue a bill to a current or former customer for each current billing period, but it contains exceptions. eg: <ul style="list-style-type: none"> Clause 5.2.1(b) "provided the consumer's monthly charges do not change by more than 10%, post-paid services where the consumer pays by direct debit (i.e Automatic payments), telcos do not need to issue a bill. Given the shift to Automatic Payments as the primary payment method, these exceptions now cover an increasingly large proportion of all telco services in Australia. Consumers are entitled to accurate information about what they will pay for their telco services and how their charges are calculated before any payment is made. 	<ul style="list-style-type: none"> The code should contain a universal requirement for telcos to supply bills to their customers before charges for a billing cycle come due or are deducted. The requirement should apply irrespective of the consumer's payment method. Bills should include an itemised list of all charges and service usage information for the relevant billing period. <p>Align the telco sector with other industries supplying essential services to the Australian community, such as the energy sector.</p>	<ul style="list-style-type: none"> Agree that the customer should know what, when and how much they'll be charged. Disagree with the prescriptive suggestion that it has to be via a bill (indeed, focussing requirement for a 'bill' would likely not achieve the outcome required) DC to draft Code requirement to the effect that the customer must be advised (without cost) when and how much they will be charged, and what the charges cover. The customer must be able to easily find an itemised description of services provided. 	<p>A</p> <p>See DC comments (right) and refer to discussion and position papers, December package, March papers, May package and related collateral for records of discussions and iterative drafting.</p>
<p>5. Billing 5.2.4</p> <ul style="list-style-type: none"> Unclear drafting. 	<ul style="list-style-type: none"> Suggest that the TCP Code is clarified such that a customer can be notified of a Bill Media change as the Supplier considers appropriate (eg via the website). 	<ul style="list-style-type: none"> Review[®] wording 	<p>A</p>
<p>Billing 5.3.1(o)</p>	<ul style="list-style-type: none"> In section 5.3.1(o), include a requirement that the contact information be specified as 	<ul style="list-style-type: none"> Agree that easy contact method should be available. 	<p>A</p> <p>Expanded clauses to require 2 contact</p>

9. Billing & Payment Methods			
Summary of issues raised	Submitters' suggested remedies	Drafting committee (DC) response	Status check (May 2024) (A= Addressed; S = Superseded or out of scope; R = revisit)
<ul style="list-style-type: none"> Contact number supplied needs to be specifically to a team that deals with billing enquiries 	<p>"for billing enquiries or to discuss with the supplier difficulties in paying the bill before the due date".</p>	<ul style="list-style-type: none"> Prescribing that it be a dedicated number may not be the best solution recognising variety of CSP sizes and structures. Incl Code wording to the effect that: There must be a readily available pathway for customers to contact their telco about their enquiry. 	<p>methods, so easier contact.</p>
<p>Billing 5.3.1</p> <ul style="list-style-type: none"> Telco bills should be simple and easy for consumers to understand. Difficult to understand the charges on consumer's telco bills especially where they are billed for multiple products and services. 	<ul style="list-style-type: none"> In addition to the current content requirements in clause 5.3.1 of the Code, the Code should require telcos to provide consumers bills that are simple and easy to understand. 	<ul style="list-style-type: none"> Agree. DC to include requirement that account information is simple and easy to understand (NB: need definition to cover 'bills' that aren't bills in the traditional sense of the word.) 	<p>A</p>
<p>Billing 5.4.3</p> <ul style="list-style-type: none"> Poorly worded 	<ul style="list-style-type: none"> Should say "will not be in breach" because as it is worded it says that we "WILL NOT" breach 5.4.2 "due to" those things (include Force Majeure) 	<ul style="list-style-type: none"> DC to address in drafting 	<p>A</p>
<p>Billing - Payment methods (5.6)</p> <ul style="list-style-type: none"> Direct debit should not be the only fee-free option of charge. Timing of DD payments which do not align with consumers income payments can result in late fees or dishonour fees, which ultimately contribute to further FH. By moving to direct debit, telcos are locking out rural and older populations who pay their rates, do their banking and pay their bills at 	<ul style="list-style-type: none"> A flexible approach to bill payment <ul style="list-style-type: none"> Increased payment options other than direct debit; and Allowing customers to part pay their bills linked to their income payment frequency – such as bill smoothing. Telcos should reconsider charging different payment methods or paper bills. ACMA is looking at the Australian National Energy Rules to be adopted or amended for 	<p>DC looking to requirement more for payment flexibility</p> <p>Note that the value of bill smoothing is unclear – it's not like electricity where more electricity is used in winter, for example.</p>	<p>A</p> <p>See DC comments (right) and refer to discussion and position papers, December package, March papers, May package and related collateral for records of</p>

9. Billing & Payment Methods			
Summary of issues raised	Submitters' suggested remedies	Drafting committee (DC) response	Status check (May 2024) (A= Addressed; S = Superseded or out of scope; R = revisit)
<p>local Post Offices, which are integral small businesses to their communities. By not offering BPAY, telcos are excluding members of the population who do not wish to utilise credit facilities. By not offering both of these things, telcos are removing the right of consumers to pay their bills their chosen way (not wedded to BPAY or AuPost but want concept of control & choice.)</p>	<p>the telco industry, including through direct regulation. The Energy Rules state energy providers must accept payment for a bill by a small (end-user) customer in person, over the phone, by mail, direct debit, electronic funds transfer and by CentrePay.</p> <ul style="list-style-type: none"> Telcos should ensure that they have clear consent from customers for payment by direct debit or other automatic payment authorisations, and that customers understand what the payments will be and when they will occur. Amounts higher than a customer authorises should not be removed, and payment arrangements cancelled promptly if the customer moves to a different service, so they are not paying for an old service they are not using. <p>Recommendation</p> <ul style="list-style-type: none"> The code should prescribe mandatory payment methods for telcos to offer all consumers. The mandatory payment methods should at a min include: <ul style="list-style-type: none"> (a) at least one method that is not automatic or based on DD, and (b) for those consumers who use and request it, Centrepay. 	<p>®</p>	<p>discussions and iterative drafting.</p>

9. Billing & Payment Methods

Summary of issues raised	Submitters' suggested remedies	Drafting committee (DC) response	Status check (May 2024) (A= Addressed; S = Superseded or out of scope; R = revisit)
<p>Billing payment options- DD & payment failure</p> <ul style="list-style-type: none"> There are very few rules regulating the conduct of telcos if direct debits fail, including how a telco communicates the failure to consumers, flexibility in allowing payment, and steps they should take before cancelling a device contract. 	<p>Failed DD should not lead to:</p> <ol style="list-style-type: none"> A suspended, restricted or disconnected service. The remaining contract payment being required to be paid in full immediately. <p>Before the telco makes reasonable efforts to:</p> <ol style="list-style-type: none"> confirm its own systems are not at fault contact + notify customer of failed DD attempts and tries to reach a short-term flexible payment solution with the customer. If payment cannot be provided under short-term flexible arrangement, inform customer of its FH policy and allow reasonable time to apply for assistance. 	<ul style="list-style-type: none"> Agree that these issues need to be addressed in Code. DC to draft new clauses accordingly. 	<p>A</p> <p>Refer to the May package cover letter addendum for further comment and analysis of issues, as well as the various discussion and position papers, December package, March papers and related collateral for records of discussions and iterative drafting.</p>
<p>Billing payment options 5.6.1 not providing protections for those outside of FH program</p> <ul style="list-style-type: none"> While telcos can offer payment plans and bill payment extensions outside of formal FH programs, these do not attract the TCP Code protections (for example, avoiding credit management action), afforded to customers on a formal FH program. 	<ul style="list-style-type: none"> ? 	<ul style="list-style-type: none"> This appears to be a definitional confusion issue. Customers get bill extensions outside of FH arrangements frequently - and often don't need further assistance or protection as a consequence. Presumably these issues will be managed in the FH Std, but it needs to be very clear that formal financial hardship (FH) arrangements and financial assistance measures are different, and that debt management within a FH arrangement is separate (and different) to credit management actions unrelated to 	<p>S</p>

9. Billing & Payment Methods			
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		<p>FH. definitions in both that and the Code are vital. Working definitions are:</p> <ul style="list-style-type: none"> ○ <u>Financial assistance measures</u> – actions to reduce costs that require no assessment or conditions to be met. These may include, for example, the customer moving to a cheaper plan. ○ <u>Financial hardship arrangements</u> – formal arrangements requiring an assessment against a formal FH policy with agreed terms. Focus is on managing the customer's debt (i.e. agreeing on an appropriate payment plan). ○ <u>Credit management</u> – actions relating to recovery of monies owed (which may or may not be related to financial hardship). These may be taken by the CSP directly, or by a 3rd party contracted by the CSP. 	
<p>Billing - late fees</p> <ul style="list-style-type: none"> • Stop imposing charges or late fees for late payments caused by delayed processing (of DD). 		<ul style="list-style-type: none"> • Late fees are relevant only to post-paid services. If 'delayed processing' means a delay on the telco's side, DC agrees that the customer should not have fees imposed on them – DC to include appropriate requirements in code to address this. 	R – missed in initial review.
<p>Billing - refunds for incorrect DD</p> <ul style="list-style-type: none"> • 5.7.1(g) requires telcos to ensure consumers receive "timely" refunds for incorrect DD. 	<ul style="list-style-type: none"> • The Code should require telcos to refund incorrect or unauthorised DD payments within a prescribed timeframe. 	Agree. DC drafting appropriate clauses to cover this.	A

9. Billing & Payment Methods			
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<ul style="list-style-type: none"> Telcos should be required to refund incorrect DD payments within a set timeframe 	<ul style="list-style-type: none"> The Code should clarify that any funds debited from a consumer's account after the consumer advises they dispute charges or have withdrawn their authority for DD payments must always be refunded to the consumer, irrespective of whether the charges were otherwise valid. 		
<p>Third party charges (5.8)</p> <ul style="list-style-type: none"> 5.8 is helpful but needs further protections to prevent the harm from arising in the first place. The recommendations will provide more control and transparency to consumers over their access and expenditure on 3rd party services billed via their telco. 	<ul style="list-style-type: none"> Suppliers must not bill for Third Party Charges without direct account holder activation of this facility with the Supplier, i.e. must be opt in, not opt out. Suppliers must set the default spend limit for Third Party Charges at \$0, and upon account holder activation of Third-Party Charging, apply the spend limit amount selected by the account holder. Suppliers must not bill for Third Party Charging if a double opt-in arrangement for each third party billed service is not in place. Suppliers must not bill for Third Party Charges if the Consumer has sent a STOP request to the third-party service 	<p>Clarification of issue required. Does not appear to be a current issue. (Current rules cover this.)</p> <p>NOTE: A few email exchanges with ACCAN clarified that the issue of subscriptions was no longer a key issue. However, what is an issue, is customers not being clear what they are signing up to, particularly with bundles.</p> <p>Action is therefore around clear advertising/info.</p>	A
<p>Billing - detrimental communications for month-to-month services</p> <ul style="list-style-type: none"> A telco supplier may not change the T&Cs of a contract for service unless the changes will not have a negative effect on consumers. As such, a supplier may not increase the price 	<ul style="list-style-type: none"> Look at other sectors/requirements. British Office for Communications (Ofcom) requires telco suppliers provide notice that a contract is coming to an end. Ofcom research has indicated this led to consumer benefit 	<ul style="list-style-type: none"> We agree[®] with principle. Ofcom's approach seems reasonable (replicating energy's approach wouldn't work as telco offerings are far more diverse than energy's; there are better ways of ensuring that the consumer gets a good outcome than including on a bill). 	<p>A</p> <p>Detrimental comms provision introduced.</p>

9. Billing & Payment Methods

Summary of issues raised	Submitters' suggested remedies	Drafting committee (DC) response	Status check (May 2024) (A= Addressed; S = Superseded or out of scope; R = revisit)
<p>for a service during the contract period for that service.</p> <ul style="list-style-type: none"> • However, consumers or small businesses may be on a month-to-month service contract, rather than a longer-term contract. • Accordingly, a supplier may increase the price of their service from time to time. • Further, we understand that suppliers may, on occasion, change the terms of a service offered to a consumer due to a change in the supplier's capability. 	<p>that nudge consumers to seek out better deals.</p> <ul style="list-style-type: none"> • Referenced ACCC's recommendation on the Home Loan Price Inquiry regarding prompts for consumers to look for a better offer. • AER's Better Bills requirement that suppliers include information within bills about the best possible offer currently available to them. 	<ul style="list-style-type: none"> • DC to look at incl relevant notifications in code in relation to fixed contracts. 	
<p>Billing - paper bills</p> <ul style="list-style-type: none"> • Most consumers happy to get online bill, but some consumers want paper. • Consumers frustrated at having to pay to receive a paper bill. • Some customers struggle with internet capacity and usage so prefer to receive paper bills. • Unfortunately, most RSPs charge a fee to customers of around \$2 a month to be sent a paper bill and only waive this fee if the customer meets certain criteria. • These fees reinforce the digital divide. 	<ul style="list-style-type: none"> • No charge for providing a bill in the format chosen by the consumer. • Cost of providing billing factored into the cost of doing business. • Exemption programs should be offered. 	<ul style="list-style-type: none"> • Paper bills are cost-free for those with an identified need. (Note: n/a for many business customers) • Part of current policy is environmental - reduce paper usage. • But DC will review 'minimum standards' on information requirements to ensure appropriately accessibility of service charge information (when/why/how). 	A
<p>Billing</p> <ul style="list-style-type: none"> • out of date requirements. 	<ul style="list-style-type: none"> • Review ongoing need to include extensive information in <ul style="list-style-type: none"> ○ 5.1 Information about charging, Bills and payment processes, ○ 5.2 Charging policies 	Will be picked up in general review/update work	A

9. Billing & Payment Methods			
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	<ul style="list-style-type: none"> ○ 5.3 the Bill ○ 5.6 Payment options 		
5.2.5(e) and 5.5.3 BILLING (and retention) <ul style="list-style-type: none"> • What is the interaction between these two clauses? 		<ul style="list-style-type: none"> • One covers services, second covers products. (principle: customer knows what they are paying for. Or 'make available in a 'durable medium' ... for free for 2 years post connection (per current requirement) (note: is actually kept for 6 per tax office requirements) • Review whole section to simplify: what's needed and why concepts. 	<p>A</p> <p>Simplified. Feedback requested to see if it is now clear.</p>
5.8.1 third party charges. <ul style="list-style-type: none"> • Third Party Charges under the TCP Code applies to “Charges collected by a Supplier on behalf of another commercial entity, for any goods and services provided by that other commercial entity” while the Complaints Handling Standard applies to complaints about a telco’s ‘telecommunication products’ which includes: • A listed carriage service or any service supplied by a carriage service provider in connection with that service; • A content service (other than a subscription broadcasting service or a television subscription narrowcasting service) provided by a carriage service provider in connection with the supply of a listed carriage service; and 	<ul style="list-style-type: none"> • “Where a Supplier includes Third Party Charges on a Customer’s Bill, a Supplier must address all enquiries made to it regarding those Third-Party Charges and resolve all Complaints in accordance with the Telecommunications (Consumer Complaints Handling) Industry Standard 2018.” • Unless, of course, CA think that these types of complaints are not in scope of the CHS. 	<ul style="list-style-type: none"> • Accept – Update accordingly. <p>®</p>	<p>A</p>

9. Billing & Payment Methods			
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<ul style="list-style-type: none"> Any goods supplied by a carriage service provider for use in connection with the supply of a telecommunications service, whether or not the goods are supplied in conjunction with, or separately from, a telecommunications service 			
<ul style="list-style-type: none"> Billing 5.3.1 New NBN Transfer Code requirement to add AVC to bill 	<ul style="list-style-type: none"> Should consider adding the AVC requirement to billing content for NBN services once Transfer code finalised (AVC is identifier for NBN service - relates to new NBN transfer Code. is basically replacing phone number on the bill. Used to stop unauthorised transfer) 	<ul style="list-style-type: none"> Agree – intend to include in Code words to the effect: 'Make available to consumer' on bill/online etc. (NB: once code registered, there will be 12-month implementation timeframe) 	A

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10. Credit/Debt Management/ Disconnection			
Summary of issues raised	Submitters' suggested remedies	Drafting committee (DC) response	Status check (May 2024) (A= Addressed; S = Superseded or out of scope; R = revisit)
<p>6. Credit and debt management</p> <ul style="list-style-type: none"> 6.1.1(a) Existing customer credit assessment / 6.1.1(b) New Customers The Code requires more robust credit assessment rules to protect consumers. 6.1.1(a) only requires telcos to base assessment off consumer's payment history with that telco – doesn't require telcos to consider a consumer's overall income or other expenses. 6.1.1.(b) Only require external credit check and assess consumer's income/savings. Not enough to assess capacity to pay. Complaints from consumers – Credit Assessments do not factor in living expenses. 	<p>TIO</p> <ul style="list-style-type: none"> The Code should include more comprehensive requirements for Credit Assessments. At a minimum, an effective credit check should include consumers' income, cost of their existing telco services, their living expenses, and other financial liabilities. To balance this requirement with the need to protect consumers' privacy, the Code should also prescribe a timeframe after which telcos must destroy credit assessment information. (Impact on PI noted but TIO believes on balance more data collection justified) <p>ACCAN:</p> <ul style="list-style-type: none"> RSPs must be required to assess the suitability of a post-paid service against a consumer's capacity to pay. this should, at minimum, include checking a customer's: <ul style="list-style-type: none"> Proof of income; and Proof of housing costs (rent receipt, copy of lease, mortgage repayments). 	<p>DC to review requirements with a focus on the risk of financial harm, noting that there is no single solution to address this, therefore review will consider a collection of updates to address underlying causes as well as the risk of financial harm. Noting:</p> <ul style="list-style-type: none"> Appropriate level of credit check depends on ability to create debt. Attempting to put a credit check on cheaper services is intrusive and may effectively block some consumers from obtaining services. Privacy is an issue and DC questions the TIO's assumption on balance. Reports reveal that 3/4 (OAIC data) of Australians believe data breaches are a month the biggest privacy risks they face and consumers are already not wanting to share the PI already requested. Note that telcos can ask about source of income (and do for new customers) but is seen as very intrusive and customers complain. Asking for proof our housing costs is not a proportional response or palatable to consumers. <p>®</p>	<p>A</p> <p>See DC notes (right) and also position papers & 2024 log to understand why addressed in the way it has been.</p>
<p>6. Credit and debt management</p> <ul style="list-style-type: none"> 6.1.1 Assess capacity to pay No obligation to sell a cheaper alternative to the customer if they are unlikely to afford the service after a credit check. 	<ul style="list-style-type: none"> ACMA recommend the current arrangements under the TCP Code should be replaced with consumer protections that put clear obligations on telcos and require the telcos to demonstrate their compliance. These 	<ul style="list-style-type: none"> Regarding compliance: balance of record keeping and privacy invasion. 	<p>A</p> <p>See also 2024 log, position papers, etc., to understand why addressed in</p>

10. Credit/Debt Management/ Disconnection			
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<ul style="list-style-type: none"> Lack of record keeping requirements make it difficult to assess compliance (eg., to demonstrate compliance with capacity to pay assessments, and what steps were taken if a customer is assessed as being unlikely to be able to pay). <ul style="list-style-type: none"> Credit assessments are subjective with the telco determining the criteria that applies and in a way that is not consistent across the industry. 	<p>obligations should be easily understood by consumers and have enhanced enforcement mechanisms that the ACMA can use if non-compliance occurs.</p> <ul style="list-style-type: none"> Responsible selling obligations should be framed around the need for sales practices to deliver fair, transparent and responsible outcomes for the consumer In the UK 'unfairness' is defined as causing significant imbalance in the parties' rights and detriment to the consumer. The consideration for unfairness takes into account all circumstances existing when the terms of sale were agreed to, which includes a person's vulnerability 		the way it has been.
<p>6.1.1 Assess capacity to pay</p> <ul style="list-style-type: none"> Suppliers must undertake a Credit Assessment before providing a Post-Paid Service with a minimum term greater than one month to a Consumer and explain the financial implications of the provision of that Post-Paid Service to the Consumer or their Guarantor. Some Suppliers failed to realise that the broad wording also captures business Consumers seeking to purchase a Post-Paid Service with a minimum term of greater than one month. 		<ul style="list-style-type: none"> See comments in definitions - it is pretty clear, but DC will review in drafting. <p style="text-align: center;">®</p>	A

10. Credit/Debt Management/ Disconnection			
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<p>6.1.3 Advising the customer about liability</p> <ul style="list-style-type: none"> The existing requirement in Clause 6.2.1(b) that the Supplier inform a customer who is not the principal end user that they remain liable for the service has proved inadequate, especially in the context of family violence. One of the ways that domestic and family violence presents in the telecommunications sector is when a perpetrator puts all internet and phone accounts in the name of the victim through pressure, fraud, or coercion, thereby leaving the victim of family violence with the legal burden of paying the bill. 	<ul style="list-style-type: none"> A Supplier should not accept a customer for a telco service if it is aware that the customer will not benefit from the service. Where a customer did not benefit from the service, and the Supplier was, or should have been, aware of this at the time of provision of service, the Supplier should release the customer from liability for the service; and The Supplier should also adopt measures to identify situations where a customer is unlikely to benefit from the service, including: <ul style="list-style-type: none"> Where bundled or multiple contract sales occur; Where customers already have a service but are requesting multiple services; or Where a person other than the account holder is trying to change the account or increase the service. 	<ul style="list-style-type: none"> DC agrees with general gist of what is trying to be achieved. However, some of this is rather simplistic and may lead to unsafe outcomes for staff and the DFV victim. Or unintended consequences for other customers (there are many other scenarios where a customer might legitimately and willingly seek to take a service for another party). <p>These issues have been examined in detail as they apply specifically to the telco sector in the DFV Guideline. Provisions will be included to require training and processes etc to help staff recognise and appropriately address possible DFV cases.</p>	<p>A</p> <p>See DC comment (right) and the comprehensive comments and analysis about this issue within this log, 2024 log, position papers, etc., and in the records of the DFV Guideline development. Effective management of this issue requires a flexible response. See also earlier comments about development of best practice and continual improvement.</p>
<p>6.5.2 Timing of notification</p> <ul style="list-style-type: none"> Clause allows a notification about 85% usage (and other thresholds) to go out up to 48 hours. AFTER that threshold has been reached, meaning that a customer MAY already have been charged for having had their data automatically topped up. 	<ul style="list-style-type: none"> Make the requirement that telcos must provide notification within 1 hour of the threshold being reached. NB: TIO raise similar point and suggest that the top-up be opt-in, with clear notification of how to enable/disable this feature. 	<ul style="list-style-type: none"> DC is considering whether it is technically feasible for the notification period requirement[®] to be reduced to 'up to 24 hours', noting that there will necessarily need to be caveats to account for the fact that the CSP may itself not receive notification. A more effective solution to the consumer detriment issue raised is to require that 	<p>1 hr suggestion not possible (technically).</p> <p><i>NB: Changes made to payment requirements in Code provide control to customer.</i></p>

10. Credit/Debt Management/ Disconnection			
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		providers provide clear information to assist educate consumers about the product costs and options for control – i.e. to not use auto top-up if there is concern about costs. (Note that there are very few services that operate like this now.)	
TIO's details not included on notices.	<ul style="list-style-type: none"> Reminder, barring, suspension, and disconnection notices should list TIO's contact details. 	<p>Notices need to focus on key information – including urgency of customer talking to their provider. Including TIO on notices will increase notice length and will result in calls to TIO before the CSP (not appropriate)</p> <p>No action taken.</p>	Refer to position papers and discussions.
<p>6.7.1a) Prior notice of restriction, suspension or disconnection UNLESS listed exceptions apply</p> <ul style="list-style-type: none"> listed exemptions not being applied consistently by some telcos as the definition in credit management does not specifically include 'automatic payments' 	<ul style="list-style-type: none"> The revised Code should explicitly apply the notice requirements for barring, suspension, and disconnection of services to situation where the barring, suspension, or disconnection occurs following a missed Automatic Payment. Where a telco disconnects a consumer's service in contravention of the disconnection notice requirements, the Code should require the telco to reinstate the service. 	<ul style="list-style-type: none"> DC looking to include new obligation around reminder notices (noting consequences of inaction) where there are missed automatic payments for prepaid services (whether traditional prepaid or upfront subscription services). 	A
<p>6.7 Notice to Restrict, Suspend or Disconnect a service for Credit and/ or Debt Management Reasons</p> <ul style="list-style-type: none"> Consumers felt intimidated by the process. Concerned they were not given appropriate notice that debt collection was going to occur. 	<ul style="list-style-type: none"> Notification by telco provider before having debt is referred to a debt collection agency. More could be done to forewarn customers about the possibility of disconnection before it occurred. 	<p>DC to consider⁽⁶⁾ how this intersects with FH Standard. BUT:</p> <ul style="list-style-type: none"> Notice must be given under the current Code provisions. By the time debt collection action is underway, the customer will have already received numerous notifications. 	A (see also comments, left)

10. Credit/Debt Management/ Disconnection			
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<ul style="list-style-type: none"> Participants were generally told about their referral to a debt collection service via an email or a text message (some participants may have preferred a phone call). No notice was given of debt collection - the communication was received after the referral had occurred, and it came from the debt collection service, rather than the telco provider. Debt collection limits people's options to receive financial assistance or loans, including interest-free loans intended to assist those in financial difficulty. 	<ul style="list-style-type: none"> One participant noted they would have preferred a phone call from their provider, as a text message did not convey an appropriate level of seriousness and was lost among the many other marketing and direct communications* from the telco provider. *though it was also noted by ACMA that, 'while few participants had actually been disconnected from their telco services recently, more participants had been threatened by their provider that their services would be disconnected if they did not pay their bills by a set date", and that this provider contact "created a sense of urgency and, in some cases, stress in participants" - which would suggest it DID create the appropriate seriousness. And that these providers followed the code requirements. 	<ul style="list-style-type: none"> It is required that records about this are kept. If a breach occurs, the ACMA can and does act. It is generally difficult to contact a customer by phone (even assuming that they have not been disconnected) as people are suspicious of scam/fraud if they receive a call advising of debt collection. Note the * in the column to the left. 	
<p>6.7 Notice to restrict, suspend or disconnect a service for credit and/or debt management reasons.</p> <ul style="list-style-type: none"> Suspension or disconnection of telco services should be a last-resort measure, considering the essential nature of telco services. 	<ul style="list-style-type: none"> Recommendation 1: The Code should specify that barring, suspension, and disconnection of services should be considered only as a last resort after a telco has proactively offered and exhausted payment assistance options. <p>Recommendation 2: Sufficient notice before disconnection minimum requirement that:</p> <ol style="list-style-type: none"> Send a disconnection warning notice, followed by a separate disconnection notice, before disconnecting 	<ul style="list-style-type: none"> Regarding recommendation 1: this IS a last resort in current code. Regarding recommendation 2: already in code. (plus FH STD overtaken this). 	<p>A</p> <p>Requirements clarified, but see comments (left)</p>

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	<ul style="list-style-type: none"> b) Make genuine attempts to contact the consumer to discuss payment assistance options in addition to sending the notices. 		
<p>6.7- notice</p> <ul style="list-style-type: none"> Telcos are not obligated to proactively identify and offer help to consumers experiencing payment difficulties (This is inconsistent with other obligations for suppliers of essential services). 	<ul style="list-style-type: none"> The Code should include obligations for telcos to proactively identify and offer assistance to consumers who may be experiencing payment difficulties. This should include obligations for a telco to offer help to any consumer receiving a restriction, suspension, or disconnection notice (rather than only referring the consumer to its FH policy). Suggest that could be similar to the Victorian Retail energy sector where suppliers required to contact consumers where the consumer has more than \$55 overdue on their account. 	<ul style="list-style-type: none"> Overtaken by Standard. 	S
<p>6.7 Notice 6.7.1(a)(i)</p> <ul style="list-style-type: none"> Exception in 6.7.1 (a)(i) permitting an RSP to cut off a service without notification if it considers the customer or the account status is an unacceptably high credit risk to be unfair, and that it should be removed. ACCAN questions whether this is consistent with the unfair contract provision of the ACL 	<ul style="list-style-type: none"> 6.7.1(a)(i) to be removed. 	<ul style="list-style-type: none"> This is to protect customers who e.g. accrue a huge amount of debt in a very short period - they need the service cutting off immediately to protect them (just as a bank would cancel a credit card if there's suspected fraud.). DC will consider whether the issues would be made clearer making the concept of risk to the consumer and put an example in to show where this might be reasonably used. But note that the intended audience of the Code is industry, not consumers. 	See comments (left) – it is not in anyone’s interest to do as suggested.

10. Credit/Debt Management/ Disconnection			
Summary of issues raised	Submitters' suggested remedies	Drafting committee (DC) response	Status check (May 2024) (A= Addressed; S = Superseded or out of scope; R = revisit)
Overall disconnection	<ul style="list-style-type: none"> ACMA is examining Canada and NZ Industry Code on disconnection, which sets out a detailed process for the disconnection of telco customers to see if we could adopt them in Aus. 	<ul style="list-style-type: none"> Codes reviewed and protections strengthened in new draft as a result (e.g. natural disasters and DFV protections, etc.) + in line with new FH Std. credit management disconnection clauses also reviewed and clarified. 	A (see comments left)
Debt collection activities – duplication	<ul style="list-style-type: none"> Remove as code rules because of duplication with ACCC guidance. 	<ul style="list-style-type: none"> Noted. DC to review in context. 	A (tidied up)
6.6, 6.7 and the use of 'courtesy notices', in addition to formal reminder notices. <ul style="list-style-type: none"> Expectations? 	<ul style="list-style-type: none"> Discussion with the ACMA on the use of 'courtesy notices' in addition to formal reminders under 6.6 and 6.7 and what content is required in which notice. 	<ul style="list-style-type: none"> DC to consider reference to the ACMA factsheet which outlines ACMA expectations. (Rules to protect customers in financial hardship ACMA) Advice about new reminders before debit notices being sent are being considered 	A Stakeholders to review in context in new draft (and in parallel w FH Std) to see if concerns addressed
<ul style="list-style-type: none"> 6.1 Responsible provision of Telco products. 	<ul style="list-style-type: none"> To assist compliance, it may be helpful to explain how device payment plans intersect with this obligation e.g., the provision of a modem or handset on a 12 or 12-month contract 	<ul style="list-style-type: none"> Agreed – see earlier comments re addressing debt risk harm. 	A Requirements to make clear – see drafting
<ul style="list-style-type: none"> 6.2 Definition of restriction not clear 	<p>The concept of Restriction could be clarified depending on the context it is being used. That is:</p> <ul style="list-style-type: none"> Restriction is broadly defined in the TCP Code. Restriction is used in various context to require “Restrictions” to be called out in advertising and the CIS (see eg cl 4.1.1 and 4.2.2(b)) but also in relation to Restricting a 	<ul style="list-style-type: none"> DC to look at wording to ensure consistent terminology. (currently uses e.g. restrictions/ limitations interchangeably). + <ul style="list-style-type: none"> cancellation - no service restriction - limited 	A

10. Credit/Debt Management/ Disconnection			
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	service in the event of credit management (see e.g. cl 6.7.4) and as a means of managing services as a Spend Management Tool (see e.g. cl 6.4.4(c)).	<ul style="list-style-type: none"> Consider including examples, incl. note to make it clear to customers what terms mean) 	
<ul style="list-style-type: none"> 6.5.1 Provision of Usage Notification. 	<ul style="list-style-type: none"> Suggest it is clarified that the Telecommunications Service Provider (International Mobile Roaming) Determination 2019 applies to international mobile roaming services. 	<ul style="list-style-type: none"> agree. update to include cross-ref 	A
<ul style="list-style-type: none"> 6.7.2 (c) - Ensure that the primary method of notification used is a format reasonably acceptable to the Customer based on their usage history 	<ul style="list-style-type: none"> May be helpful to clarify what is meant by "on their usage history." 	<ul style="list-style-type: none"> DC to review and consider including words from ACMA Fact sheet on notifications. 	A
<ul style="list-style-type: none"> 7.1.2 (a) Repetition of Clause 6.6 		<ul style="list-style-type: none"> Noted. Reviewing all structure & code. 	A

11. Complaint Handling			
Summary of issues raised	Submitters' suggested remedies	Drafting committee (DC) response	Status check (May 2024) (A= Addressed; S = Superseded or out of scope; R = revisit)
<ul style="list-style-type: none"> 55% of complaints to the TIO, are a result of the no or delayed action by provider 	<ul style="list-style-type: none"> Room for improvement in service provider responsiveness 	<ul style="list-style-type: none"> Out of scope. But this is a very wide 'catch-all' complaints category and not therefore useful in allowing meaningful analysis of the problems with a view to improving consumer outcomes. This is an issue that we have discussed with the TIO and both parties agreed that work 	S

11. Complaint Handling			
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		should be done to allow the data to be more useful.	
<ul style="list-style-type: none"> Any changes to the TCP Code with respect to complaint handling should be made in consideration of the Telecommunications (Consumer Complaints Handling) Industry Standard 2018. 	<ul style="list-style-type: none"> Ensure any changes to complaint handling aligns with other legislation already in place to ensure there is no duplication and expansion on the already wide number of legislative and regulatory obligations CSPs are under. 	<ul style="list-style-type: none"> Out of scope 	S
<ul style="list-style-type: none"> Telco employee didn't read TCP Code . 		<ul style="list-style-type: none"> Knowledge of TCP Code IS a requirement in current Code - DC to make sure it's clear in training section 	A
<ul style="list-style-type: none"> ACMA attitude to complaints The ACMA saw fit to provide no acknowledgement regarding a legitimate complaint, and instead defended their decision to keep the matter closed, even though their original decision to close the matter was based on a misunderstanding of facts. 	<ul style="list-style-type: none"> ACMA should treat consumers with courtesy and respect as the ACMA claim to be practising. 	<ul style="list-style-type: none"> Out of scope This is directed at the ACMA and is not an action for CA. 	S
<ul style="list-style-type: none"> Complaint handling is not relevant anymore as a chapter heading as not in Code. 	<ul style="list-style-type: none"> Remove - just include reference to CHS 	<ul style="list-style-type: none"> Agree – reference CHS & FHS in intro. 	A

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12. Compliance Monitoring

Summary of issues raised	Submitters' suggested remedies	Drafting committee (DC) response	Status check (May 2024) (A= Addressed; S = Superseded or out of scope; R = revisit)
<p>10. Accountability Principle</p> <ul style="list-style-type: none"> • Essential services are subject to direct regulation. • Enforcement actions available to ACMA = relatively weak • Code drafting is not clear in places and can be subjective. • TCP code doesn't address consequences of not fulfilling obligations or ensuring telcos understand the obligations. 	<ul style="list-style-type: none"> • Clarity in drafting consumer protection rules is needed to assist industry understand their obligations and take appropriate measures. • Obligations in the consumer protection rules need to be assessable so that appropriate compliance action can be undertaken. • Penalties for breaches of consumer protection rules need to be stronger and sufficient to provide incentive for industry to comply. • Regulation, whether co-regulation or direct, should include provisions that require telcos to develop performance reporting systems to demonstrate code compliance, which are monitored and reviewed at an executive or board level. • Telcos should also publish the key performance indicators they use to measure compliance, including reporting systems and methodology, to demonstrate accountability. 	<ul style="list-style-type: none"> • DC is working to restructure code to take account of SOE, with metrics etc. Metrics must be meaningful and comparable - challenging. It is taking time to work through. <p style="text-align: center;">®</p>	<p>It is not at all clear that direct regulation offers better protections than is offered by this revised TCP Code. Indeed, this co-regulatory Code is arguably <u>better</u> able to achieve the desired consumer outcomes through:</p> <ul style="list-style-type: none"> • clear obligations supported by very clear monitoring, review and escalation – with requirements for self-monitoring (and governance); • annual auditing by an external independent expert auditor (CommCom);

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		®	<ul style="list-style-type: none"> escalation paths to the ACMA (over and above the ACMA's ability to act without escalation referral). <p>This allows for a much more comprehensive check of compliance than the ACMA could achieve alone, and also provides the opportunity for CSP education (where appropriate) and continual improvement. This should lead to better consumer outcomes than can be achieved through the blunt mechanisms afforded through direct regulation.</p>

12. Compliance Monitoring

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<p>ACMA enforcement powers are limited.</p> <ul style="list-style-type: none"> Code compliance is 'largely premised on industry goodwill' 	<ul style="list-style-type: none"> Provide ACMA stronger enforcement powers and impose more significant penalties. The government should increase fundings for ACMA to investigate and act in a timely manner when a provider breaches the code. 	<ul style="list-style-type: none"> Largely out of scope- and enforcement issues area subject of separate discussion. But the TCP Code is compulsory, not dependent on 'goodwill'. ACMA does have powers. And telcos do act when given a formal warning. 	<p>S</p>
<p>CommCom powers</p> <ul style="list-style-type: none"> Commcom does not have the adequate power of resource to independently verify there is industry in all aspects and therefore is heavily reliant on information being truthful and accurate. 	<ul style="list-style-type: none"> Material increase in Commcom's resourcing. Expand powers to allow for independent external audits. 	<p>As an independent body, CommCom does its own assessment of CSP compliance which uses information received from the attestations (which use different questionnaires each year to test compliance) to then conduct audits of CSP customer-facing collateral (e.g. website content; training documentation (requested), etc). The process includes CommCom providing feedback to and assisting CSPs to ensure they are compliant with the areas identified in the questionnaire. It provides the opportunity for CSPs to address areas in which they are not fully meeting their requirements under the Code (within set timeframes).</p> <p>Note: the concept of an attestation of partial compliance arose from discussions with the ACMA and was designed to encourage providers to be forthcoming and more transparent about their level of compliance without fear of sanctions – thereby resulting in continual improvement. Where there is repeated non-compliance, CommCom has the ability to refer CSPs to the ACMA for enforcement action. It is important that enforcement action by the ACMA relating to non-compliance is conducted in timely manner so as to remain relevant to that year's attestation. Note that this has rarely been necessary because most</p>	<p>A</p> <p>Chpt 10 totally re-written. See position papers and May 2024 Cover letter addendum</p>

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		<p>instances of partial or non-compliance that are identified during the attestation process are rectified by way of constructive engagement between CommCom and the provider to address identified issues. There have, however, been instances where CSPs have failed to lodge attestations that have been referred to the ACMA for enforcement. This issue, and efficiency and visibility of the TCP Code and CommCom generally, would be increased by the proposed CSP registration scheme.</p> <p>Finally, CommCom also consults with the ACMA, ACCAN and industry when considering key issues to be assessed in the annual compliance audit (attestation).</p> <p>CommCom's role and reporting of what it does /how it does it/what it finds /action requested is being investigated as part of this review.</p>	
<p>Independent auditing</p> <ul style="list-style-type: none"> The independent assessment by an external auditor is only required once. 	<ul style="list-style-type: none"> Independent and external audits should be conducted on large well-established participants who have the resources and appropriate arrangements. Or At least biennial independent auditing, for all suppliers who are not small suppliers, with all to be subject to the same auditing requirements. 	<p>DC to ensure CommCom role as external auditor is clear and mechanisms tightened as required (additional auditor requirement would be extremely expensive and benefit is dubious; auditors have no better way of knowing what's 'true' than CommCom. Costs are passed on to consumers. The focus should be to ensure telcos have appropriate controls and processes in place, training etc + review mechanisms – which is being considered as part of the review.)</p>	<p>A</p> <p>Chpt 10 totally re-written. See position papers and May 2024 Cover letter addendum</p>
<p>Auditing via CommCom (attestation)</p> <ul style="list-style-type: none"> The attestation process may become a high-cost regulatory box ticking exercise rather than achieving any improvements in the 	<ul style="list-style-type: none"> Any reforms made to the attestation and other compliance activities, takes into consideration the disproportionate effects that such processes have on smaller CSPs. 	<ul style="list-style-type: none"> Noted. DC looking at CommCom's role/reporting as part of the review. 	<p>We have attempted to balance conflicting views on this – feedback on new draft is invited.</p>

12. Compliance Monitoring

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<p>industry. The process is already a massive undertaking that is very time consuming, particularly for smaller CSPs who have limited resources. Cost of compliance is not appropriately balanced with the benefits to industry/consumers. This is due to the lack of reporting or activities undertaken by Commcom that demonstrates whether this onerous burden is having a positive impact, or identifying where industry needs more work.</p>			
<p>Partially compliant issue</p> <ul style="list-style-type: none"> There is no limit on the number of occasions on which a telco supplier can report being partially compliant. 	<ul style="list-style-type: none"> Repeated non-compliance relating to the same conduct or issue should be addressed in the enforcement framework. 	<ul style="list-style-type: none"> Where there's repeated non-compliance, Commcom refers to ACMA. DC to ensure this is clear in the TCP Code enforcement f/wk /review of the reporting /enforcement section. 	<p>A</p> <p>Comments reveal a misunderstanding of the processes in place. Chpt 10 has been substantially reviewed. to make all this clear.</p>
<p>Remedies</p> <ul style="list-style-type: none"> Code doesn't provide clear remedies that consumers are entitled to in the event a telco doesn't comply with Code. For this reason, it is less likely our officers will look to the Code for guidance when making decisions about complaints, than to direct regulation that does specify remedies, such as the ACL. 	<ul style="list-style-type: none"> Direct regulation in other essential service sectors specify remedies for non-compliance For example, the Part 4-2 of the National Consumer Credit Protection Act 2009 outlines the remedies available to affected persons if a credited provider breaches the Act 	<ul style="list-style-type: none"> Unclear comment. The cited Act refers to powers for a COURT to grant remedies. The National Credit Code (Schedule 1 to the Act) also includes targeted remedies for particular breaches, such as Division 6 of Part 5, which deals with mortgagor's remedies (these include orders a court can make). This is similar to the ACL. Nonetheless, the DC looking to include specific remedies for some issues. For others, 	<p>A</p> <p>See DC comment. But remedies now clear.</p>

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		where there are numerous variables, the DC will look to give examples.	

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