Australian Government
Australian Communications and Media Authority

NOTICE UNDER SUBSECTION 125(1) OF THE *TELECOMMUNICATIONS ACT 1997*

To: **The Australian Telecommunications Alliance Limited (ACN 078 026 507)**

At: **Level 25, 100 Mount Street**
North Sydney NSW 2060

Attention: Chief Executive Officer

The Australian Communications and Media Authority (the **ACMA**) being satisfied that the *Telecommunications Consumer Protections Code C628:2019 Incorporating Variation no. 1/2022* (the **TCP Code**) is deficient within the meaning of subsection 125(7) of the *Telecommunications Act 1997* (the **Tel Act**) in that it is not operating to provide appropriate community safeguards and otherwise operating to regulate adequately participants in the telecommunications industry to which it applies in relation to the matters set out in Attachment A (the **deficiencies**):

HEREBY requests under paragraph 125(1)(c) of the Tel Act that the Australian Telecommunications Alliance Limited address the deficiencies within a period of 30 days from the date of this notice.

Dated: 23 October 2025

Adam Suckling (Oct 23, 2025 07:39:23 GMT+11)

Acting Chair

Cathy Rainsford

Cathy Rainsford (Oct 23, 2025 07:39:58 GMT+11)

General Manager

Attachment A

Deficiencies

The ACMA's 2023 *What consumers want – Consumer expectations for telecommunications safeguards* position paper (ACMA position paper) examined deficiencies in the TCP Code and highlighted the appropriate community safeguards the ACMA expected to be incorporated into the TCP Code resulting from the 2023-2025 review process. Further, since the Code was registered in 2019, access to telecommunications (particularly mobile phone, and home broadband) has become even more essential for connectivity, identity protection including security measures such as multi-factor authentication, and safety. In that time, it also became evident that the TCP Code does not contain adequately specific requirements about the management of deceased accounts to provide appropriate community safeguards.

These telecommunications consumer safeguards would ensure that consumers have reliable access to services, are treated fairly, have protection from misleading practices, are supported in vulnerable circumstances and have access to remedies when things go wrong.

Clarity and certainty in drafting throughout TCP Code

1. Clarity and drafting issues have contributed to the TCP Code failing to adequately regulate industry participants and provide appropriate community safeguards. The ACMA position paper identified a range of principles relevant to the consumer expectations discussed, including the principle of accountability. Accountability reflects an organisation's responsibilities to its stakeholders. It is critical in ensuring that consumers have confidence in the co-regulatory system. Accountability also ensures that organisations comply with regulation and are held responsible if they fail to do so.
2. The ACMA has, over multiple years, raised concerns with the telecommunications industry that some obligations within the TCP Code are ambiguous and, in certain cases, unduly subjective. The use of words such as 'may' (rather than 'must') and 'appropriately' do not provide clarity to industry or certainty to consumers about what they can expect of their providers.[1]
3. Requirements need to be clear and definitive to assist industry understand its obligations and to be assessable by the regulator so that action can be undertaken when necessary to support compliance by the industry.

Information about products and purchases

4. The TCP Code has not operated to provide appropriate community safeguards in relation to transparently providing consumers with information about products and purchases.
5. While the TCP Code requires telcos to have a Critical Information Summary (CIS) available about its offers, there are no explicit requirements for a Critical Information Summary to contain information about:
    a. whether a plan is paid upfront/pre-paid or is post-paid
    b. what payment options are available, what charges apply to them and which are fee-free

[1] For example, clauses 4.2.4(b); 4.3.1(g); 4.4.1(a); 4.6.4; 5.2.3; and 6.7.5(b).

c. if direct debit or other auto-payment is required or used, an explanation of when the payment will be taken out and what flexibility is offered regarding choice of payment date

d. the billing consequences for cancelling a plan (including month-to-month plans paid upfront/pre-paid) when the plan is combined with device repayments on a contract, including whether the outstanding amount due on a device contract must be paid in full in the next payment.

6. The TCP Code's requirements about where to place online links to a CIS, or their prominence on a telco website, are too loose. Currently, links to a CIS must be put 'where the supplier advertises the offer on the supplier's website', which gives significant discretion for a telco to comply, yet still make the CIS links possible for consumers to overlook.

7. The TCP Code contains inadequate obligations relating to the provision of information to consumers about expected mobile coverage. This has led to unclear and inconsistent provision of information to consumers about the mobile coverage they can reasonably expect and also ongoing dissatisfaction when consumers, especially in regional and rural areas, find that their new mobile service does not have sufficient coverage to work properly. The ACMA considers that for assisted sales, there is a clear need for stronger requirements for CSP staff to check mobile coverage in areas where a consumer expects to use their service before selling a mobile product to make sure that coverage should be available. There should also be stronger requirements to prompt consumers during non-assisted sales (for example, online sales) to check the mobile coverage in their area prior to the purchase and actively provide them with a link to the CSP network's mobile coverage map.

Responsible selling

8. The TCP Code has not operated to provide appropriate community safeguards in relation to responsible sales practices. Responsible selling obligations within the TCP Code are not preventing consumers, including those in vulnerable circumstances, from being sold expensive devices or plans they are unable to afford. Reports from consumer representative groups and the TIO have repeatedly found that some consumers are being sold telecommunications goods and services that exceed their needs and are beyond their ability to pay for. In recent years, ACCC investigations into selling misconduct by two major telecommunications providers have led to civil proceedings and multi-million dollar civil penalties under the Australian Consumer Law. Specifically:

a. On 24 September 2024, the Federal Court ordered a major telecommunications provider to pay a penalty of $100 million for engaging in unconscionable conduct when selling mobile phones and contracts to hundreds of Australians, and subsequent debt collection.[2]

b. On 13 May 2021, the Federal Court ordered a major telecommunications provider to pay a penalty of $50 million for engaging in unconscionable conduct engaged by its sales staff in connection with contracts for the supply of post-paid mobile products and services to 108 consumers.[3]

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[2] *Australian Competition and Consumer Commission v Optus Mobile Pty Limited* [2025] FCA 1177.

[3] *Australian Competition and Consumer Commission v Telstra Corporation Limited* [2021] FCA 502.

c. On 3 October 2025, the Federal Court ordered a major telecommunications provider to pay a penalty of $18 million for engaging in false or misleading representations to customers about the upload speeds of their contracts.[4]

9. The structure and wording of the responsible selling rules in clause 4.5.1 of the TCP Code has led to difficulties in assessing and enforcing compliance.

10. The responsible selling obligations are based on systemic actions that telcos must take, and have not ensured that the conduct of individual sales staff during transactions complies with the overarching obligation to promote and sell products in a fair, transparent and responsible manner.

11. The TCP Code contains no rules about sales incentive schemes, including safeguards to minimise the risk that incentive schemes encourage mis-selling behaviour by some sales staff and managers to gain financial advantage. The Federal Court found in September 2025 that the commission-based structure endorsed by a major telecommunications provider created incentives for inappropriate sales practices and the overselling of accessories.[5] It is imperative that there be strong rules to prevent mis-selling especially where sales incentive schemes are in place, and particularly to protect consumers in vulnerable circumstances.

12. Responsible selling rules in the TCP Code are also difficult to administer due to a lack of clarity about what constitutes 'appropriate' staff training and ongoing monitoring of sales staff. A lack of record-keeping requirements to demonstrate compliance with responsible selling rules add to the difficulty of investigating and enforcing compliance.

13. There are no specific remedies for mis-selling when mobile coverage does not meet reasonable expectations or when a consumer's vulnerability has impaired their decision making at the time of a sale.

Credit assessments

14. The TCP Code has not operated to provide appropriate community safeguards in relation to credit assessments. Credit assessment requirements, as set out in the TCP Code, have proved ineffective when assessing residential consumers' capacity to pay for requested telecommunications products and preventing consumers on low incomes from taking on more costs than they can reasonably afford. The current credit assessment rules:

    a. do not consider the cost of additional requested services on top of the cost of current services for existing customers

    b. are limited to considering the costs of services, not goods (devices) as well, which can add a significant financial commitment

    c. only apply to residential consumers

    d. are further limited by not applying to plans categorised as 'pre-paid' or with contract terms longer than one month, even though this would omit commonly sold service plans that roll on automatically on a month-to-month basis but require payment one month in advance and, if stopped, could trigger a significant charge to quickly pay out a device contract linked to the service

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[4] *Australian Competition and Consumer Commission v Telstra Limited* [2025] FCA 93.

[5] *Australian Competition and Consumer Commission v Optus Mobile Pty Limited* [2025] FCA 1177, at [15] and [58].

e. lack clear criteria for CSPs to use to determine whether a credit assessment should result in a consumer qualifying to purchase a requested service.

Payment methods

15. The TCP Code has not operated to provide appropriate community safeguards in relation to appropriate payment methods being made available to consumers. There are currently very limited requirements in the TCP Code to provide flexibility with payment methods, including in relation to the use of direct debit, such as a consumer being able to nominate or change the date of payment. The rigidity of direct debit payment dates has been highlighted in the ACMA paper, *Financial hardship in the telco sector: keeping the customer connected.*[6] as an issue that can lead to financial difficulties for consumers and, in some cases, service restriction or even disconnection. Providing direct debit payment timing flexibility would help address some of the reported issues by enabling consumers to better manage their telco bill payment date with the timing of their regular income payments.

16. There are very few rules regulating the conduct of CSPs if direct debit attempts fail, including how a CSP communicates the failure to consumers, flexibility in allowing payment, and steps they should take before cancelling a device contract or taking credit management action.

Disconnection processes

17. Failed direct debit attempts for payment of a service should not lead to a service being suspended, restricted or disconnected or a demand for the outstanding device contract payment being required to be paid straight away before the CSP makes reasonable efforts:

    a. to check that its own systems are not at fault

    b. to promptly contact and notify the customer of the failed direct debit attempt and allow them reasonable time to transfer sufficient money into their account and notify them when the next direct debit attempt is scheduled to occur

    c. if payment cannot be provided, inform the customer of its payment assistance policy and allow a reasonable time to apply for assistance.

18. The TCP Code does not describe the actions a CSP must take (or the timeframes in which they should occur), to reconnect a service that has been disconnected or to remove restrictions on a consumer's service where the disconnection or restriction has occurred in error by the CSP. This omission fails to provide adequate safeguards to provide a timely remedy to restore consumers' services that are considered essential to most people.

Treatment of consumers in vulnerable circumstances and their representatives

19. The TCP Code has not operated to provide appropriate community safeguards for consumers experiencing vulnerable circumstances. The rules for vulnerable and disadvantaged consumers in the TCP Code are not well-defined. They are also difficult to assess and enforce because the protections are too general and subjective, and do not provide sufficient protection to this group of customers. Applying inclusive design principles across all processes that involve interactions with consumers would ensure that

[6] *Financial hardship in the telco* sector: keeping the customer connected, published in 2023 on the ACMA website, www.acma.gov.au/financial-hardship-telco-sector-keeping-customer-connected.

consumers in vulnerable circumstances can be accommodated by default, as well as all other consumers.

20. The language in the TCP Code regarding a CSP's responsibility in handling consumers experiencing vulnerability is unclear. For example, the main provision addressing vulnerable and disadvantaged customers (clause 3.4.1) only requires telcos to 'have regard to' an ACCC best practice compliance guide. This is an ambiguous term that offers very limited support for consumers in vulnerable circumstances.
21. Additionally, the TCP Code does not provide sufficient protections to manage the effective, timely and compassionate finalisation of deceased customer accounts with an authorised estate representative.