

Friday, 7 March 2025

Ms Nerida O'Loughlin
Chair
Australian Communications and Media Authority

By email: Nerida.OLoughlin@acma.gov.au

Dear ACMA Telecommunications Consumer Protections Code committee review members

The Australian Communications and Media Authority (ACMA) must not register the Telecommunications Consumer Protections Code and instead insist on direct regulation of the telecommunications industry

We refer to our previous correspondence dated 11 July 2024. Consumer Advocacy Organisations again call on the ACMA to not proceed with registration of the TCP Code (the Code) and instead work with Government to develop direct regulation for all telecommunications sector consumer protections.

In its correspondence and direction to Communications Alliance between August and December 2024, the ACMA highlighted numerous areas of the proposed Code that required significant improvement. However, the latest proposed Code released for public consultation in December 2024 by Communications Alliance falls well short of providing appropriate community safeguards and therefore, in our view, is incapable of registration. While the ACMA is afforded discretion to register codes, this is a constrained discretion that does not provide power to register codes that provide inadequate safeguards.

We strongly support the final assessments of the Code provided by the Australian Competition and Consumer Commission (ACCC), the Telecommunications Industry Ombudsman and the Australian Communications Consumer Action Network (ACCAN) who consider that the deficiencies within the Code remain unacceptable. After engaging in an extended and resource intensive consultation process which has resulted in extremely little for consumers, these bodies are also of the view the Code is not suitable for registration and have requested the ACMA to proceed to direct regulation.

In its submission, the ACCC states that the draft Code continues to suffer from 'fundamental shortcomings' that weaken its ability to provide consumer protections. In these circumstances, in the view of the ACCC, "there is no alternative but to impose direct regulation." At a minimum, the ACCAN has called for the ACMA to develop direct regulation for section 6 of the Code.

In particular, the proposed drafting of the Code with respect to credit assessment and sales practices is insufficient to address genuine community concerns about predatory behaviour which have long plagued the sector and resulted in material harm to consumers over many years. We continue to hear from callers to our frontlines of egregious examples of mis-selling and harm due to poor sales practices and credit assessment requirements and we have provided recent case studies to the ACMA. The low standard of consumer protections in fundamental areas of the Code have not changed over many years to stop this type of conduct from occurring.



We have been encouraged by the steps taken by the Government to strengthen the ACMA's enforcement ability to take action against poor conduct by telecommunications providers towards their customers and introduce enforceable standards covering protections for people experiencing financial hardship and domestic and family violence. However, despite these welcome developments, as noted by the ACCC, "the substance of the draft Code will continue to create difficulties for the ACMA regardless of its new enforcement tools." The ACCAN equally states in its submission that the new ACMA enforcement powers may be rendered ineffective by the poor drafting of the Code.

We remain of the view that without fundamentally changing the Code to introduce appropriate community safeguards and overriding the influence that the telecommunications industry has under the Telecommunications Act's co-regulatory model, the Code will never meet the standard expected for the ACMA to register it. Telecommunications are an essential service and need to be regulated as such. The community expects telecommunications providers to put customers -particularly those in vulnerable situations- first.

We are happy to discuss the contents of this letter in further detail if required.

Yours sincerely,



cc :

Carolyn Lidgerwood, ACMA Acting Deputy Chair
Catriona Lowe, ACMA Member
Anna Brakey, ACMA Member
Adam Sucking, ACMA Member
Samantha Yorke, ACMA Member

Cathy Rainsford, ACMA General Manager, Consumer Division
Tanya Farrell, ACMA Manager, Consumer, Telecommunications, Safeguards and Numbers Division
Hon Michelle Rowland MP, Minister for Communications
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Kathleen Silleri, DTIRDCA Assistant Secretary Consumer Safeguards Branch
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Luke Coleman, CEO, Communications Alliance

Letter Signatories :

Consumer Action Law Centre
Financial Counselling Australia
Economic Abuse Reference Group
WEstjustice
Indigenous Consumer Assistance Network
Consumers' Federation of Australia
South Australian Council of Social Service
Care ACT
Anglicare NT
Bush Money Mob, WA
Hume Riverina Community Legal Service
Consumer Credit Legal Service, WA
Consumer Policy Research Centre
Council on the Ageing (COTA) Australia
Victorian Aboriginal Legal Service
Redfern Legal Centre
South-East Community Links
Centre for Women's Economic Safety

