

# Retail registration scheme

## Summary

The Australian Communications Consumer Action Network (**ACCAN**) recommends the development of a retail registration scheme (**the registration scheme**). The registration scheme should apply to Carriage Service Providers (**CSPs**) in Australia.<sup>1</sup> The registration scheme will give the Australian Communications and Media Authority (**ACMA**) greater visibility of telecommunications market participants and facilitate enforcement and compliance actions.

Introducing a registration scheme, administered by the ACMA will centralise information on market participants, reducing the resource burden of compliance and enforcement action. Creating an up-to-date register of CSPs will provide material benefits to consumers, improving the visibility of market participants, simplifying the process of seeking redress and facilitating compliance.

## Background

CSPs in Australia do not currently need to register or apply for a licence to sell services before entering the telecommunications market. Without minimum standards for market entry, it is difficult to prevent non-compliance and consumer detriment due to CSP conduct before it occurs.

There are four bodies that maintain lists of CSPs in Australia. However, none of these lists are comprehensive. These include:

- Communications Compliance (**CommCom**) – which collects annual attestation certifications from CSPs confirming their compliance with the Telecommunications Consumer Protection Code (**TCP Code**) and publishes them on the CommCom website;<sup>2</sup>
- Telecommunications Industry Ombudsman (**TIO**) – which maintains a searchable register of its members;<sup>3</sup> and
- ACMA – which maintains a list of statutory infrastructure providers (**SIPs**) and their relevant service areas;<sup>4</sup>
- Communications Alliance – which maintains a list of CSPs that have registered with them.<sup>5</sup>

<sup>1</sup> *Telecommunications Act 1997* (Cth), s 87

<sup>2</sup> Communications Compliance, *Compliance*, <https://commcom.com.au/compliance/>

<sup>3</sup> Telecommunications Industry Ombudsman, *Who we work with*, <https://www.tio.com.au/members/who-we-work-with>

<sup>4</sup> Australian Communication and Media Authority, *SIP Register*, <https://www.acma.gov.au/sip-register>

<sup>5</sup> Communications Alliance, *Consumer Related Codes and Guidelines*, <https://www.commsalliance.com.au/Documents/Publications-by-Topic/consumers>

The lack of comprehensive records creates significant administrative challenges for regulators, industry bodies, and the TIO.

Consumers whose CSPs fail to join the TIO scheme, including consumers that have been impacted by fraudulent CSP activity, generally cannot seek redress through the TIO and access immediate dispute resolution. This issue was highlighted in the Australian Competition and Consumer Commission (ACCC) enforcement action against SoleNet and Sure Telecom, where illegal phoenix activity prolonged consumer harm, and also in the ACMA's proceedings against Red Telecom.<sup>6</sup>

## Ask and rationale: A retail registration scheme

ACCAN's position is that, in the first instance, a retail registration scheme in the telecommunications sector should apply to all CSPs as defined under the *Telecommunications Act 1997* (Cth).<sup>7</sup> CSPs should be required to join the registration scheme prior to contracting and selling services. Requiring CSPs to be registered, prior to allowing them to purchase and resell wholesale services will provide a proportionate barrier to entry. The effectiveness of registration in driving industry compliance should be subject to ongoing review and built upon where beneficial to do so.

The TIO, ACMA and ACCC expressed support for the development of a registration scheme for CSPs in their responses to the Commonwealth Government consultation on *Consumer Safeguards Review Part C – Choice and Fairness*. The TIO position is that the prevalence of CSPs engaging in scam behaviour – for example, phoenixing – would be minimised by the introduction of a registration scheme, as it could establish a barrier to market entry for such entities.<sup>8</sup>

## Registration information

The registration scheme should require the provision of key information including:

- Business details (e.g. legal status, business address, contact details, contact person, trading name/s), sufficient to clearly identify the business and associated entities.
- An acknowledgement of, and agreement to comply with, relevant codes and standards (including the TCP Code, various industry codes, and the CommCom attestation scheme).
- Evidence of TIO membership, or evidence of exemption.
- A description of the services to be provided (e.g. broadband, mobile, fixed voice).
- Details for a single contact point within the CSP for registration, and an agreement to keep contact details up to date within a certain period of time, for example, 28 days as per Australian Securities and Investments Commission requirements.<sup>9</sup>

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<sup>6</sup> Noting that the Federal Court penalty judgement against Red Telecom was only finalised in July 2022. For more information, see Australian Communications and Media Authority 2022, *ACMA welcomes significant penalties in Red Telecom Federal Court case*, media release, <https://www.acma.gov.au/articles/2022-07/acma-welcomes-significant-penalties-red-telecom-federal-court-case>

<sup>7</sup> *Telecommunications Act 1997* (Cth) s 7 and s 87(1)

<sup>8</sup> Telecommunications Industry Ombudsman 2018, *TIO Submission to the 2018 Treasury consultation on reforms to combat illegal phoenix activity – Draft legislation*, <https://www.tio.com.au/sites/default/files/2019-05/20181002-TIO-Submission-Reforms-to-combat-illegal-phoenix-activity.pdf>

<sup>9</sup> Australian Securities and Investments Commission, *Changing Company Address*, <https://asic.gov.au/for-business/changes-to-your-company/changing-company-addresses/>

## Benefits

With minimal cost impost or administrative burden on CSPs, a retail registration scheme would provide material benefits to consumers, regulators and service providers including:

- Providing a central source of information that consumers can use to contact their CSPs.
- Reducing the time and resources spent pursuing CSPs for non-compliance with TIO scheme membership and other regulatory obligations.
- Allowing for information on key regulatory obligations to be provided to registrants at the time of registration, limiting inadvertent or unintentional non-compliance.
- Providing an additional, more direct enforcement tool in the form of de-registration, for the ACMA to intervene in the event of egregious or repeated non-compliance.
- Reducing the financial and non-financial costs to consumers, as all CSPs would be required to demonstrate their ability to supply services in compliance with regulatory obligations.
- Providing reputational benefits to CSPs that consistently comply with the terms of the scheme.

## Conclusion

Consumers deserve to be treated fairly by their telecommunications providers, and to be assured that their provider is meeting their consumer protections obligations. ACCAN recommends the development of a retail registration scheme for CSPs. The establishment of a registration scheme will give the ACMA greater visibility and enforcement capabilities over the telecommunications industry. Telecommunications are an essential service, and a requirement to register to provide these services must be introduced to better protect communications consumers in Australia.

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