



5 March 2020

General Manager
Communications Infrastructure Division
Australian Communications and Media Authority (ACMA)
By email: haveyoursay@acma.gov.au

Dear Manager,

ACCAN thanks the ACMA for the opportunity to provide comments on its 2021-22 compliance priorities. A robust regulatory compliance and enforcement program is essential to ensuring consumer protections rules are followed, especially in a co-regulatory environment like the telecommunications sector.

Our feedback highlights priority areas the ACMA should focus its compliance and enforcement activity on over the coming year. We have identified these areas based on:

- the impact of these issues on consumers of phone and internet services,
- the severity of the risk of consumer harm stemming from non-compliance in relation to these issues, and
- member feedback and evidence received by ACCAN.

The priority areas from compliance activity we have identified are:

- Customer service and complaints handling
- Digital-only RSPs
- Access to financial hardship arrangements
- Direct debt arrangements
- Accessibility and inclusion, and
- The NBN transition regulatory regime administered by the ACMA.

List of recommendations

- **Recommendation 1:** The ACMA should direct its attention towards RSPs' compliance with customer service provisions and complaints handling rules outlined in the Telecommunications Consumer Protections Code and the ACMA Complaints Handling Standard.
- **Recommendation 2:** The ACMA should proactively monitor major digital-only RSPs to test their compliance with consumer protections rules, and clarify RSPs obligations' to provide support to their customers over the phone.
- **Recommendation 3:** The ACMA should investigate RSPs' compliance with the TCP Code's financial hardship and credit management rules, particularly in relation to granting

*Australian Communications Consumer Action Network (ACCAN)
Australia's peak body representing communications consumers*

consumers access to financial hardship provisions, and ensuring arrangements like repayment plans are fair and flexible.

- **Recommendation 4:** The ACMA should prioritise investigating RSPs' compliance with TCP Code obligations surrounding direct debit billing, and clarify consumer protections rules in instances where RSPs mandate or strongly preference direct debit payments.
- **Recommendation 5:** The ACMA should undertake a further disability mystery shopping exercise to monitor the provision by RSPs of accurate consumer information to people with disability.
- **Recommendation 6:** That the ACMA closely monitors TV licensees' compliance with captioning rules and undertakes research to clarify the quality and efficacy of real-time captions.
- **Recommendation 7:** The ACMA should continue monitoring compliance with the suite of NBN consumer rules as households continue to transition to the new network.

Customer service and complaints handling

The Australian COVID-19 outbreak saw a widespread and rapid breakdown in telcos' onshore and offshore customer service operations. While some retail service providers (RSPs) responded quickly and continued to offer quality customer service and timely supports to consumers, others did not; for many people and small businesses, customer service wait-times and delays in complaints handling continue to persist and have, in some instances, worsened.

In 2020, the Consumer Policy Research Centre (CPRC) collected granular survey data on consumers' experiences of the COVID-19 pandemic to understand the impact of the outbreak on access to goods and services. Between May and August 2020, consumers reported telecommunications providers as delivering the worst customer service of all essential service providers – in August 2020, 5.7 million Australians reported having a recent negative experience with their telecommunications provider, an increase from previous months.¹

ACCAN continues to receive anecdotal and member feedback that some providers are not meeting customer service and complaints handling obligations, particularly:

- timeframes for acknowledging, responding to and resolving complaints as set out in the ACMA Complaints Handling Standard,
- Obligations to be contactable and responsive as per the Complaints Handling Standard and the TCP Code,
- TCP Code provisions surrounding providing accurate information and attempting first contact resolution, and
- TCP Code selling practice obligations.

ACCAN's own internal investigations have revealed that as recently as December 2020, one major provider's general customer service helpline was not functional and instead referred customers to the provider's app for assistance via an automated message. The explanation given by the provider was the impact of COVID-19 on customer service operations. In many regional and remote

¹ Consumer Policy Research Centre (CPRC) 2020, *Telco woes plague nation*, https://cprc.org.au/app/uploads/2020/09/Consumers-and-COVID-19_AUGUST-RESULTS-SNAPSHOT_21Sept2020.pdf

communities, including Aboriginal and Torres Strait Islander communities, degraded customer service and lengthy wait times for fault rectification is all too common.²

12 months' on from the initial COVID-19 outbreak in Australia, RSPs have had ample time to adjust their customer service operations to the challenges posed by the pandemic – it is no longer good enough for RSPs to divert responsibility for poor customer service, especially given the leniency and forbearance granted to RSPs in the wake of the pandemic, and the fact that the telecommunications sector had reputation for poor customer service and low levels of consumer trust long before the pandemic.^{3 4}

Access to customer service and complaints handling are fundamental premises upheld by the current consumer protections framework. It is ACCAN's view that poor customer service – both through RSPs' insufficient allocation of resourcing to customer service teams, and through inadequate policies, procedures and employee conduct – is at the heart of a significant proportion of consumers' phone and internet problems.

Recommendation 1: The ACMA should direct its attention towards RSPs' compliance with customer service provisions and complaints handling rules outlined in the Telecommunications Consumer Protections Code and the ACMA Complaints Handling Standard.

Digital-only RSPs

Digital-only RSPs are telco providers that offer customer service predominantly online, usually via Internet-based contact forms and/or smartphone apps. Characteristically, these providers generally offer simplified and comparatively more affordable phone and internet plans, attracting price-sensitive customers.

Feedback from members, consumers, and desktop research conducted by ACCAN in March 2021 found that some major digital-only RSPs:

- Do not provide a general customer service phone number,
- Do not acknowledge or resolve complaints in accordance with timelines set out in the ACMA Complaints Handling Standard,
- Provide a complaints phone number, but this number is not readily accessible as it is buried in the providers' complaints handling policy, which is also not readily accessible,
- Provide a complaints phone number that essentially operates as a voicemail service promising acknowledgement of a complaint within 48 hours,
- Do not have a financial hardship policy that is readily accessible as per TCP Code obligations.

ACCAN has been contacted directly by 5 digital-only RSP customers who were unable to get in contact with their provider about an issue, and we aware of many more. ACCAN understands other

² Samantha Jonscher 2020, *Isolated Utopia homelands in central Australia cut off by heavy rainfall*, ABC News, 29 December, <https://www.abc.net.au/news/2020-12-29/utopia-homelands-isolated-after-heavy-rain/13019190>

³ Australian Communications Consumer Action Network 2018, *Can You Hear Me? Ranking the customer service of Australia's phone and internet companies*, <https://accan.org.au/our-work/research/1523-can-you-hear-me-ranking-the-customer-service-of-australia-s-phone-and-internet-companies>

⁴ Roy Morgan 2019, *Supermarkets, Pubs and Pokies – poles apart in Trust and Distrust*, press release, <http://www.roymorgan.com/findings/8045-net-trust-score-monitor-july-2019-201907030638>

consumer advocacy organisations are routinely contacted by customers also having difficulty getting in touch with digital-only RSPs.

The conduct and characteristics described above are not exclusive to any one digital-only RSP. ACCAN is concerned that the bulk of digital-only RSPs are not equipped to respond to urgent or complex complaints due to the issues set out above, nor are they equipped to deal with vulnerable customers, customers requiring in-person or over-the-phone support (for example, people with disability), or customers that have experienced a network fault or disconnection.

The increasing popularity of digital-only RSPs, and the substantial difficulties many customers have contacting them, has revealed a gap in consumer protections rules which currently do not explicitly require RSPs to have a general staffed customer service helpline.

Recommendation 2: The ACMA should proactively monitor major digital-only RSPs to test their compliance with consumer protections rules, and clarify RSPs obligations' to provide support to their customers over the phone.

Access to financial hardship arrangements

The ACMA's recent Financial Hardship State of Play Report re-iterates ACCAN's and others' concerns that consumers – both residential consumers and small businesses – are often unable to access fair and flexible financial hardship arrangements. Of particular note are the following findings in the Report:

- The dollar amount of consumer debt as of 30 June 2020 was over \$1 million higher than the previous year,
- Like the previous financial year, less than half of financial hardship customers successfully exited their arrangements,
- 15% of residential consumers had an entry-level debt of \$1,500 or more – more than double the rate of the previous year,
- 20% of residential FH customers were disconnected and 28% were subject to debt collection (though it is unclear how many were disconnected by request),
- 18% of small business FH customers were disconnected and 22% were subject to debt collection (again, it is unclear how many were disconnected by request), and
- There was substantial variation across telco-by-telco results – some RSPs had high rates of customers successfully exiting financial hardship arrangements and affordable median payment plan pay instalments, while others had unaffordable instalments and very low numbers of successful completions.

The Report indicates:

- The high level of variability in industry members' response to and management of financial hardship customers,
- That current financial hardship rules and obligations are not keeping phone and internet consumers connected or on top of their payments contrary to the rules' intentions, and
- There is a desperate need for a directly regulated and standardised approach for managing customers in financial hardship.

Consumer Action Law Centre's The Trouble with Telcos report provides detailed accounts of the difficulties telco customers experience seeking access to fair and flexible financial hardship

arrangements as is obligated under the TCP Code – anecdotes that ACCAN hears time and time again from members and consumer advocates.⁵

Recommendation 3: The ACMA should investigate RSPs’ compliance with the TCP Code’s financial hardship and credit management rules, particularly in relation to granting consumers access to financial hardship provisions, and ensuring arrangements like repayment plans are fair and flexible.

Direct debit arrangements

ACCAN has identified that some RSPs are increasingly preferencing direct debit billing as the sole free payment method for customers. For example, Telstra is abolishing its post-paid mobile service plans in place of an upfront automatic payment method via direct debit.⁶ Under the TCP Code, providers are entitled to use direct debit billing and preference it as their free payment – however, consumer protections rules are unclear about providers’ ability to strongly preference direct debit, and reduce or withdraw other payment methods.

While some consumers find direct debit billing convenient, providers’ preferencing of direct debit billing creates substantial problems for consumers on low fixed incomes who need to manage payments carefully, as well as those who want more flexibility in managing their budget. Recent customer service challenges experienced by many industry members may prohibit consumers from being able to quickly resolve complaints about direct debiting, leaving those consumers out of pocket and leading to a possible increase in TIO complaints. ACCAN is particularly concerned about regional low income consumers who have little choice other than to use Telstra mobile services, and are likely to struggle to maintain direct debit payments against other budgetary constraints.

Recommendation 4: The ACMA should prioritise investigating RSPs’ compliance with TCP Code obligations surrounding direct debit billing, and clarify consumer protections rules in instances where RSPs mandate or strongly preference direct debit payments.

Accessibility and inclusion

The CPRC found that in August 2020, almost half of consumers with disability (43%) reported having negative experiences with telecommunications providers.⁷ ACCAN is still routinely contacted by members relaying instances where people with disability have not been properly supported by their providers, especially at point of sale. In March 2019 the ACMA formally warned Telstra, Optus and Vodafone for failing to provide information about products and services that suit the needs of consumers with disability. This followed an investigation that found consumer-facing sales staff lacked knowledge and awareness of accessible products.

⁵ Consumer Action Law Centre (CALC) 2020, *The Trouble with Telcos*, https://consumeraction.org.au/wp-content/uploads/2020/11/201120-Covid-Telco-Report_V7.pdf

⁶ Telstra 2021, Your post-paid mobile plan is becoming upfront, https://www.telstra.com.au/support/mobiles-devices/automatic-plan-update-faq?fbclid=IwAR1XlyhZ7K3jBgWag5R1lfzha5Ct_7tOK0EZNtc4RHZ7VWfGssAgNmllruk

⁷ Consumer Policy Research Centre (CPRC) 2020, *Telco woes plague nation*, https://cprc.org.au/app/uploads/2020/09/Consumers-and-COVID-19_AUGUST-RESULTS-SNAPSHOT_21Sept2020.pdf

The ACMA must revisit this issue in 2021 to make sure telcos have made the changes required to provide consumers with disability and accessibility needs with accurate, up to date and accessible information about their products and services.

Recommendation 5: The ACMA should undertake a further disability mystery shopping exercise to monitor the provision by RSPs of accurate consumer information to people with disability.

In relation to broadcasting, quality captioning is essential for many Australians, and there are captioning requirements all commercial, national and subscription TV licensees must comply with. The ACMA should research the quality and efficacy of real-time captions created using automated speech recognition software and Auslan avatars.

This research should involve desk research (as an initial scoping exercise), user testing and focus groups. The user testing and focus group elements of this research could explore the potential uses of automated speech recognition software in the communications sector – including for telecommunications products and services and the National Relay Service. ACCAN is of the view that this research would be extremely valuable as a precursor to other essential research, such as research into the role that artificial intelligence (AI) may play in creating more accessible video content (e.g. automated captioning, automated/synthetic audio description, Auslan avatars).

Recommendation 6: That the ACMA closely monitors TV licensees' compliance with captioning rules and undertakes research to clarify the quality and efficacy of real-time captions.

Transition to NBN rules

While the NBN roll-out is nearing completion, many premises are still not connected to the NBN. The ACMA has developed a regulatory regime that responds to a suite of consumer experiences relating to NBN transitions and service delivery. ACCAN is aware that many of the premises still to be connected may involve complex issues, for example older multi-dwelling units, where consumers will be reliant on the efficacy of the NBN rules for a smooth transition.

Recommendation 7: The ACMA should continue monitoring compliance with the suite of NBN consumer rules as households continue to transition to the new network.

Continued areas of focus

ACCAN supports the ACMA to continue its focus on:

- Industry's adoption of changes to the TCP Code,
- 5G EME exposure and consumer education work, and
- The ACMA Scam Technology Project.

ACCAN thanks the ACMA for the opportunity to provide input into its 2021-22 compliance and enforcement priorities. If you wish to get in touch with us regarding our comments, please do so at Rebekah.Sarkoezy@accan.org.au or at 02 9288 4000.

Yours sincerely,

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Policy Officer