

ACN Pacific Investigation Report

Findings

The ACMA finds that ACN Pacific Pty Ltd (ACN 108 535 708) (**ACN Pacific**) contravened paragraph 7(1)(a) of the *Telecommunications (Consumer Complaints Handling) Industry Standard 2018* (the **Complaints Standard**) on 31 July 2018 by failing to establish a complaints handling process that includes the minimum requirements for consumer complaints handling.

The ACMA also finds that ACN Pacific contravened subsection 128(1) of the *Telecommunications Act 1997* (the **Act**) as a consequence of failing to comply with an industry standard determined under subsection 125AA(1) of the Act on 31 July 2018.

Background

In a letter dated 3 September 2018, the ACMA advised ACN Pacific Pty Ltd that it was investigating ACN Pacific's compliance with sections 8, 9 and 10 of the Complaints Standard (the **minimum requirements for consumer complaints handling**).

That same letter advised:

- that ACMA staff had assessed the complaints handling process that was available on ACN Pacific's website on 31 July 2018 (the **CHP**); and
- the ACMA's preliminary findings regarding ACN Pacific's compliance with the minimum requirements for consumer complaints handling.

For the purpose of this investigation the ACMA considered that the CHP was a complaints handling process for the purposes of the Complaints Standard. ACN Pacific provided submissions on 7 September 2018 and 17 September 2018 in response to those preliminary views of ACMA staff (**response**). ACN Pacific did not dispute the preliminary findings in its response but did provide revised CHPs.

Reasons

The table below sets out the ACMA's final findings and the reasons for those findings. In making its final findings, the ACMA has considered the CHP and the responses. The revised CHPs are not the subject of the ACMA's final findings.

Compliance with the minimum requirements for consumer complaints handling

Provision	Requirement	ACMA finding and reasons
7(1)(a)	A carriage service provider, that offers to supply telecommunications products to consumers under a consumer contract must establish a complaints handling process that includes the minimum requirements for consumer complaints handling.	ACN Pacific has contravened paragraph 7(1)(a) by failing to include the minimum requirements for consumer complaints handling in the CHP as set out below.
8(1)	A complaints handling process must:	
8(1)(b)	be made available to the public on the carriage service provider's website in a concise form that sets out the minimum requirements for complaints handling referred to in	The CHP did not set out all of the matters referred to in paragraphs (d) to (m) and section 9 and 10, namely: <ul style="list-style-type: none">- paragraph 8(1)(k);

	paragraphs (d) to (m), and sections 9 and 10;	<ul style="list-style-type: none"> - paragraph 8(1)(m); - section 9; - paragraph 10(f); and - paragraph 10(g). <p>Therefore, the ACMA finds that ACN Pacific did not include the minimum requirements in paragraph 8(1)(b) of the Complaints Standard in the CHP.</p>
8(1)(k)	require members of its personnel to:	
8(1)(k)(i)	clarify with a consumer if they wish to make a complaint where the consumer has made contact and expressed dissatisfaction through one of the channels referred to in paragraph (h) or paragraph (i), and the member of the personnel is uncertain if the consumer wishes to make a complaint;	<p>The CHP did not include any information requiring personnel to clarify with a consumer whether they wish to make a complaint.</p> <p>Therefore, the ACMA finds that ACN Pacific did not include the minimum requirements in paragraph 8(1)(k) of the Complaints Standard in the CHP.</p>
8(1)(m)	set out in sequence each potential step in the process for managing a complaint that was unable to be resolved on first contact, including the following steps:	<p>The CHP did not set out in sequence the potential step in the process for managing a complaint unable to be resolved on first contact as required under subparagraph 8(1)(m)(viii) as described below.</p>
8(1)(m)(viii)	closing a complaint;	<p>Specifically, the CHP did not identify the step of closing a complaint.</p> <p>Therefore, the ACMA finds that ACN Pacific did not include the minimum requirements in subparagraph 8(1)(m)(viii) of the Complaints Standard in the CHP.</p>
9	A complaints handling process must identify the relevant time periods associated with each step in the process, including the response times for managing a complaint set out in sections 12, 13, 14, 15, 16 and 17.	<p>The CHP did not provide:</p> <ul style="list-style-type: none"> - timeframes where there is any delay in the resolution of complaints as required by section 14; - timeframes for advice regarding prioritisation, escalation and external dispute resolution as required by section 15; - information regarding the timeframes for advising of frivolous or vexatious complaints as required by section 16; and - timeframes for attempting to make contact with a consumer where the CSP has been unable to contact the consumer to discuss the complaint as required by section 17.

		Therefore, the ACMA finds that ACN Pacific did not include the minimum requirements in section 9 of the Complaints Standard in the CHP.
10	A complaints handling process must:	
10(f)	provide that a consumer's telecommunications service cannot be cancelled for the sole reason that the consumer was unable to resolve the complaint directly with the carriage service provider and pursued options for external dispute resolution; and	<p>The CHP did not state that a consumer's telecommunications service cannot be cancelled because a consumer was unable to resolve the complaint and pursued external dispute resolution.</p> <p>Therefore, the ACMA finds that ACN Pacific did not include the minimum requirements in paragraph 10(f) of the Complaints Standard in the CHP.</p>
10(g)	include a process for classifying complaints into different categories, which clearly describes each category of complaint.	<p>The CHP did not include a process for classifying complaints into different categories.</p> <p>Therefore, the ACMA finds that ACN Pacific did not include the minimum requirements in paragraph 10(g) of the Complaints Standard in the CHP.</p>

Compliance with subsection 128(1) of the Act

Provision	Requirement	ACMA finding and reasons
Subsection 128(1)	if an industry standard applies to participants in a particular section of the telecommunications industry and is registered under Part 6 of the Act, each participant in that section of the industry must comply with the standard.	<p>The Complaints Standard:</p> <ul style="list-style-type: none"> - is an industry standard determined under subsection 125AA(1) of the Act and registered under Part 6 of the Act; and - applies to participants in the telecommunications industry including carriage service providers (CSPs). <p>ACN Pacific is a CSP that supplies internet, landline and mobile services to the public. As a participant in the section of the telecommunications industry to which the Complaints Standard applies, ACN Pacific is required to comply with the Complaints Standard under subsection 128(1) of the Act.</p> <p>ACN Pacific's CHP did not include the minimum requirements for consumer complaints handling as described above.</p> <p>Therefore, the ACMA finds that ACN Pacific has contravened subsection 128(1) of the Act on 31 July 2018 by failing to comply with paragraph 7(1)(a) of the Complaints Standard.</p>