Australian Phone and Internet Investigation Report

Findings

The ACMA finds that Australian Phone and Internet Pty Ltd (ACN 604 304 243) (**Australian Phone and Internet**) contravened paragraph 7(1)(a) of the *Telecommunications (Consumer Complaints Handling) Industry Standard 2018* (the **Complaints Standard**) on 17 August 2018 by failing to establish a complaints handling process that includes the minimum requirements for consumer complaints handling.

The ACMA also finds that Australian Phone and Internet contravened subsection 128(1) of the *Telecommunications Act 1997* (the **Act**) by failing to comply with an industry standard determined under subsection 125AA(1) of the Act on 17 August 2018.

Background

In a letter dated 4 September 2018, the ACMA advised Australian Phone and Internet that it was investigating Australian Phone and Internet'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 Australian Phone and Internet's website on 17 August 2018 (the **CHP**); and
- the ACMA's preliminary findings in relation to Australian Phone and Internet's compliance with the minimum requirements for consumer complaints handling.

Australian Phone and Internet provided a response on 19 October 2018 addressing those preliminary views of ACMA staff (**response**).

Australian Phone and Internet did not dispute the preliminary findings in its response but did provide an updated CHP. That revised CHP is not the subject of these findings.

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 response.

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.	Australian Phone and Internet 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 refer to all of the matters set out in paragraphs (d) to (m) and section 9 and 10, namely: - paragraph (8)(1)(d);

	paragraphs (d) to (m), and sections 9 and 10;	- paragraph (8)(1)(k); - paragraph (8)(1)(m); - section 9; - paragraph 10(d); and - paragraph 10(g). Therefore, the ACMA finds that Australian Phone and Internet did not include the minimum requirements in paragraph 8(1)(b) of the Complaints Standard in the CHP.
8(1)(d)	be free of charge for consumers to use;	The CHP indicated that there are some circumstances where charges may be levied. There are no exceptions which allow for charging under the Standard. Therefore, the ACMA finds that Australian Phone and Internet did not include the minimum requirements in paragraph 8(1)(d) of the Complaints Standard in the CHP.
8(1)(k)	require members of its personnel to:	
8(1)(k)(i) 8(1)(k)(ii)	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; and provide consumers with help to formulate, make and progress a complaint, and set out steps to assist members of its personnel to help consumers with special needs or disabilities, and consumers from non-English backgrounds or those suffering financial hardship;	The CHP did not include any information requiring personnel to clarify with a consumer whether they wish to make a complaint. Further, while the CHP provided for assistance to formulate, lodge and progress complaints, it did not provide any information in relation to helping customers with special needs or disabilities or from non-English speaking backgrounds. Therefore, the ACMA finds that Australian Phone and Internet did not include the minimum requirements in paragraph 8(1)(k) of the Complaints Standard in the CHP.
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:	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.
8(1)(m)(viii)	closing a complaint;	The CHP did not include the process for closing a complaint.

		Therefore, the ACMA finds that Australian Phone and Internet did not include the minimum requirements in paragraph 8(1)(m)(viii) of the Complaints Standard in the CHP.
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.	The CHP did not provide: - 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 contact a consumer where the CSP has been unable to contact consumer to discuss the complaint as required by section 17. Therefore, the ACMA finds that Australian Phone and Internet did not include the minimum requirements in section 9 of the Complaints Standard in the CHP.
10	A complaints handling process must:	
10(d)	set out a description of how escalated complaints will be managed;	The CHP did not set out the steps for managing an escalated complaint. Therefore, the ACMA finds that Australian Phone and Internet did not include the minimum requirements in paragraph 10(d) of the Complaints Standard in the CHP.
10(g)	include a process for classifying complaints into different categories, which clearly describes each category of complaint.	The CHP did not include a process for classifying complaints into different categories. Therefore, the ACMA finds that Australian Phone and Internet did not include the minimum requirements in paragraph 10(g) of the Complaints Standard in the CHP.

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.	The Complaints Standard: - is an industry standard determined under subsection 125AA(1) of the Act and registered under Part 6 of the Act. - applies to participants in the telecommunications industry including carriage service providers (**CSPs**). Australian Phone and Internet is a CSP that supplies internet and landline service to the public. As a participant in the section of the telecommunications industry to which the Complaints Standard applies, Australian Phone and Internet is required to comply with the Complaints Standard under subsection 128(1) of the Act. Australian Phone and Internet's CHP did not include the minimum requirements for consumer complaints handling as described above. Therefore, the ACMA finds that Australian Phone and Internet contravened subsection 128(1) of the Act on 17 August 2018, by failing to comply with paragraph 7(1)(a) of the Complaints Standard.