

Foxtel Management Investigation Report

Findings

The ACMA finds that Foxtel Management Pty Limited (ACN 068 671 938) (**Foxtel**) contravened paragraph 7(1)(a) of the *Telecommunications (Consumer Complaints Handling) Industry Standard 2018* (the **Complaints Standard**) on 26 July 2018, by failing to establish a complaints handling process that includes the minimum requirements for consumer complaints handling.

The ACMA also finds that Foxtel 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 26 July 2018.

Background

In a letter dated 31 August 2018, the ACMA advised Foxtel Management Pty Ltd that it was investigating Foxtel'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 Foxtel's website via the 'Legal Stuff' link on 26 July 2018 (the **original policy**); and
- the ACMA's preliminary findings in relation to Foxtel's compliance with the minimum requirements for consumer complaints handling.

Foxtel provided submissions on 3 and 5 September 2018, that the original policy had been updated on 1 July 2018 and its new complaints handling process was available on the date of the ACMA's review via the 'Contact Us' link from its website (the **CHP**). Foxtel claimed that due to a technical oversight the original policy was still accessible via the 'Legal Stuff' link on its website at the time of the ACMA's review. Foxtel stated that it was not aware that the original policy and the new CHP were both available on its website until 15 August 2018, and it arranged for the correct version of the new CHP to be uploaded on 16 August 2018, to the Legal Stuff link. Foxtel also provided a link to the new CHP and advised that it was satisfied that it complied with the checklist provided with the ACMA's preliminary findings.

On 10 September 2018, the ACMA contacted Foxtel and advised that it had reviewed the new CHP and found further preliminary breach findings regarding the revised CHP. Foxtel was also advised to review the new CHP against the checklist and the original preliminary findings and make the required changes to its policy.

Foxtel provided a revised copy of its CHP on 13 September 2018.

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. The original policy and the revised CHP 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.	Foxtel 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 paragraphs (d) to (m), and sections 9 and 10;	The CHP did not set out all the matters referred to in section 9 for the reasons set out below. Therefore, the ACMA finds that Foxtel did not include the minimum requirement in paragraph 8(1)(b) 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 the timeframes where there is any delay in the resolution of complaints as required by section 14. Therefore, the ACMA finds that Foxtel did not include minimum requirement in section 9 of the Complaints Standard in the new 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.	<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>Foxtel is a new 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, Foxtel is required to comply with the Complaints Standard under subsection 128(1) of the Act.</p> <p>The new CHP did not include the minimum requirements for consumer complaints handling of the Complaints Standard as described above.</p> <p>Therefore, the ACMA finds that Foxtel contravened subsection 128(1) of the Act on 26 July 2018, for failing to comply with paragraph 7(1)(a) of the Complaints Standard.</p>