

Investigation Report: Infinity Telecom

File No.	ACMA2019/537
Carriage Service Provider	Infinity Telecom Pty Limited ACN 625 411 636
Type of Service or Product	Landline and internet services
Relevant Legislation	<p><i>Telecommunications Act 1997</i></p> <p><i>Telecommunications (Consumer Complaints Handling) Industry Standard 2018</i></p> <p><i>Telecommunications (NBN Consumer Information) Industry Standard 2018</i></p> <p><i>Telecommunications Consumer Protection Code 2015 C628:2015</i></p>

Findings

The ACMA finds that, on 29 April 2019, Infinity Telecom Pty Limited ACN 625 411 636 (**Infinity**) contravened:

- subsection 128(1) of the *Telecommunication Act 1997* (the **Act**) by failing to comply with:
 - subsections 7(1) and 8(3) of the *Telecommunications (Consumer Complaints Handling) Industry Standard 2018* (**Complaints Standard**), paragraphs 7(1)(c) and 11(1)(a) of the *Telecommunications (NBN Consumer Information) Standard 2018* (**Consumer Information Standard**)
- clauses 4.1.1(d) and 6.11.1(a) of the *Telecommunications Consumer Protection Code C628:2015* (**2015 TCP Code**).

Background

1. On 29 April 2019, the ACMA commenced an investigation under subsection 510(1) of the Act into Infinity's compliance with the Complaints Standard, Consumer Information Standard and the 2015 TCP Code.
2. On 22 May 2019, Infinity was provided with a copy of the ACMA's preliminary findings.
3. Infinity responded to the ACMA's preliminary findings on 27 May 2019 and 5 June 2019 (the **responses**). In the responses Infinity did not dispute any of the preliminary findings and advised that it 'noted the itemised list of delinquencies' and was actioning these matters. Infinity further advised that it had taken on no new customers since 1 March 2019, was working on updating its website to address the ACMA's concerns, but there were delays to finalisation of this website work caused by its website developers.

Relevant facts

4. Infinity supplies internet, landline and mobile services to the public, which includes residential and small business consumers. Infinity also supplies NBN services directly to consumers. Accordingly, Infinity is a carriage service provider (**CSP**) within the meaning of the Act, a retail carriage service provider (**RCSP**) within the meaning of the Consumer Information Standard, and a Supplier for the purposes of the 2015 TCP Code.
5. As a CSP, Infinity is a participant in the section of the telecommunications industry to which the Complaints Standard applies. As an RCSP, Infinity is a participant in the section of the telecommunications industry to which the Consumer Information Standard applies. Accordingly, Infinity is required by subsection 128(1) of the Act to comply with both the Complaints Handling Standard and the Consumer Information Standard.
6. At the time that the relevant conduct occurred, the 2015 TCP Code was registered under section 117 of the Act and applied to CSPs who supply services to residential and small business consumers (see clause 1.4 of the 2015 TCP Code). As a CSP, the 2015 TCP Code applied to Infinity in relation to its relationships with residential and small business consumers.
7. The ACMA's final findings and the reasons for those findings are set out in the tables below. In making its final findings, the ACMA has considered Infinity's responses and the material available on Infinity's website located at <https://www.infinity.com.au/> (**Infinity's website**) as accessed on 29 April 2019.

Findings and Reasons

Complaints Standard

Provision	Requirement	ACMA findings and reasons
Paragraph 7(1)(a)	A CSP that offers to supply telecommunications products to consumers under a consumer contract must establish a Complaints Handling Process (CHP) that includes the minimum requirements for consumer complaints handling.	<p>The minimum requirements are set out in sections 8, 9 and 10 of the Complaints Standard and include a requirement at paragraph 8(1)(b) to make the CHP available to the public on its website in a concise form that sets out the minimum requirements for complaints handling as specified by paragraphs 8(1)(d) to (m) and sections 9 and 10.</p> <p>The ACMA conducted a comprehensive review of Infinity's website on 29 April 2019 and was unable to locate a CHP on Infinity's website as required by paragraph 8(1)(b).</p> <p>Therefore, the ACMA finds that Infinity contravened paragraph 7(1)(a) by not establishing a CHP that complies with the minimum requirements.</p>
Subsection 8(3)	A CSP must ensure that information about how a consumer can contact the CSP to make a complaint or enquiry can be accessed via a link on the homepage for its website.	<p>The page accessed via the "Contact Us" link on the home page of Infinity's website did not resolve to information about how to contact the CSP to make a complaint or enquiry. In addition, the other links on the home page of Infinity's website did not resolve to information about how to contact the CSP to make a complaint or enquiry. Further, a search of the term 'complaint' on 29 April 2019 did not return any results.</p> <p>Therefore, the ACMA finds that Infinity has contravened subsection 8(3) by not ensuring that information about how a consumer may contact the CSP to make a complaint or enquiry can be accessed via a link on its homepage.</p>

Consumer Information Standard

Provision	Requirement	ACMA findings and reasons
Paragraph 7(1)(c)	A RCSP must make its key facts sheets (KFS) available on its website via hyperlinks that are prominently displayed, and in close proximity, or set out adjacent, to the full description of the relevant NBN consumer plan.	<p>The ACMA conducted a comprehensive review of Infinity’s website on 29 April 2019 and was unable to locate any KFS for any NBN plan on Infinity’s website.</p> <p>There was no hyperlink to KFS adjacent or in close proximity to the full description of any NBN plan available on Infinity’s website.</p> <p>Therefore, the ACMA finds that Infinity has contravened paragraph 7(1)(c) of the Consumer Information Standard by not making a KFS available on its website.</p>
Paragraph 11(1)(a)	A RCSP must, where its advertising material relates to an NBN consumer plan for a fixed line NBN connection, include the information referred to in paragraph 8(1)(b), and subsection 8(2) where applicable, in its description of the NBN consumer plan in any such advertising material that is published in printed form or online, or broadcast by any means.	<p>Paragraph 11(1)(a) of the Consumer Information Standard requires NBN consumer plan advertisements to include numerical information describing the typical busy period download speed that the average consumer can expect to receive during the busy period, and the hours over which that speed applies (as referred to in paragraph 8(1)(b) and subsection 8(2)).</p> <p>On 29 April 2019, the ACMA examined advertising material published on Infinity’s website for Infinity’s Platinum, Gold and Silver NBN consumer plans. The ACMA is satisfied that this material meets the definition of advertising material under the Consumer Information Standard as it is promotional or marketing material distributed via the internet about its NBN services.</p> <p>The advertising material examined by the ACMA for Infinity’s ‘Silver’ NBN consumer plan did not contain a reference to the typical busy period download speed. In addition, the advertising material examined by the ACMA for Infinity’s ‘Platinum’, ‘Gold’ and ‘Silver’ NBN consumer plans did not state the hours over which the typical busy period download speed applies.</p> <p>Therefore, the ACMA finds that Infinity has contravened paragraph 11(1)(a) by:</p> <ul style="list-style-type: none"> - not including the typical busy period download speed for the Silver NBN consumer plan, and - not stating the typical busy period download speed hours as required for the ‘Platinum’, ‘Gold’ and ‘Silver’ NBN consumer plans.

Telecommunications 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 and the Consumer Information Standard:</p> <ul style="list-style-type: none"> - are industry standards determined under subsection 125AA(1) of the Act and registered under Part 6 of the Act, and - apply to participants in the telecommunications industry including CSPs and RCSPs respectively. <p>As a CSP, Infinity is a participant in the section of the telecommunications industry to which the Complaints Standard applies. As an RCSP, Infinity is a participant in the section of the telecommunications industry to which the Consumer Information Standard applies. Accordingly, Infinity is required to comply with the both the Complaints Handling Standard and the Consumer Information Standard.</p> <p>Infinity has not complied with applicable requirements under the Complaints Handling Standard and the Consumer Information Standard for the reasons set out above. Therefore, the ACMA finds that Infinity has contravened subsection 128(1) of the Act on 29 April 2019.</p>

2015 TCP Code

Provision	Requirement	ACMA findings and reasons
Clause 4.1.1(d)	A Supplier is required to ensure that the summary of each of its current offers (Critical Information Summary (CIS)) is readily accessible on its website and included as a link where the Supplier advertises an offer on its website.	<p>The ACMA conducted a comprehensive review of Infinity's website on 29 April 2019, and was unable to locate Infinity's CIS anywhere, including under the 'Critical Information Summaries' link.</p> <p>Therefore, the ACMA finds that Infinity contravened clause 4.1.1(d) of the TCP Code by failing to ensure that its CIS is readily available on its website.</p>
Clause 6.11.1(a)	A Supplier is required to ensure that its Financial Hardship Policy is readily accessible on its website.	<p>The ACMA conducted a comprehensive review of Infinity's website on 29 April 2019 and was unable to locate Infinity's Financial Hardship Policy. A further search using the search term 'financial hardship' was conducted through the search bar on Infinity's website, and there were no results.</p> <p>Therefore, the ACMA finds that Infinity contravened clause 6.11.1(a) of the TCP Code by failing to ensure that its Financial Hardship Policy is readily available on its website.</p>