

- (b) Information obtained from Solo Network on 16 June, 1 July, 3 July, and 10 July 2020 in response to the Notice.
6. On 28 October 2020, the ACMA sent its preliminary findings report to Solo Network, inviting it to respond by 11 November 2020.
 7. The ACMA did not receive a response from Solo Network to the preliminary findings.

Findings and Reasons

Having assessed the evidence and information before it, the ACMA has found that Solo Network contravened clauses 4.5.1(a), 9.1.1(a) and 9.7.1 of the TCP Code. Details of the contraventions are set out below.

Legislative framework

Clause 4.5.1(a) Responsible approach to selling

8. Clause 4.5.1(a) of the TCP Code requires suppliers to ensure their sales representatives promote and sell telecommunications products in a fair, transparent, responsible and accurate manner to assist consumers in making informed purchasing decisions.
9. The TIO received 33 complaints about Solo Network between 21 November 2019 and 3 March 2020 that alleged that Solo Network misled consumers during unsolicited sales calls. The ACMA sought information and documents from Solo Network about 15 of the 33 TIO complaints in relation to the sales conduct of Solo Network between 10 September and 9 October 2019. In response to the Notice, Solo Network provided call recordings of the sales calls relating to 12 of the 15 complaints. Solo Network could not find three of the requested call recordings in its systems.
10. The ACMA has assessed Solo Network's response to the Notice against the above TCP Code requirement, in **Attachment A**.
11. For the reasons set out in Attachment A, the ACMA finds that for the 12 call recordings provided by Solo Network, Solo Network did not ensure that its sales representatives sold its telecommunications products in a fair, transparent, responsible and accurate manner to assist consumers in making informed purchasing decisions.

Clause 9.1 Obtaining Consent

12. Clause 9.1.1(a) of the TCP Code states that:

A Gaining Supplier must use reasonable endeavours to ensure that a Consumer is only the subject of a Transfer by a Gaining Supplier if the Consumer has provided their consent to such a Transfer.

- (a) **Consent:** The Gaining Supplier must ensure that the Consumer provides consent to the Transfer; and
- (b) ...

13. For the reasons set out in **Attachment A**, the ACMA finds that Solo Network did not ensure that its sales representatives used reasonable endeavours to ensure that two consumers provided consent to transfer their services to Solo Network (Case numbers 4 and 6).
14. Therefore, the ACMA finds that Solo Network failed to comply with clause 9.1.1(a) on two occasions.

Clause 9.7 Keeping records regarding transfers

15. Clause 9.7 requires a gaining supplier to keep records to enable a consumer to verify that the transfer process was undertaken in accordance with Chapter 9 of the TCP Code. Specifically, clause 9.7.1 states:
- The Gaining Supplier must create, and retain for a minimum of 2 years after the completion of the Transfer or as required by law, auditable records establishing that:
- (a) **Authorisation:** the person who authorised the Transfer advised the Gaining Supplier that they were authorised to do so; and
 - (b) **Compliance with requirements:** the Transfer was undertaken and advised to the Customer in accordance with this chapter.
16. The ACMA sought documents from Solo Network that evidenced that 15 customers who made complaints to the TIO identified in Schedule D in the Notice consented to the transfer of their services to Solo Network. Solo Network failed to provide any record of the authorisation to transfer for three customers (Case numbers 4, 5 and 11).
17. In two of the cases, Solo Network did not dispute that the transfer took place but was unable to produce a record of consent in relation to the two transfers.
18. In one case, Solo Network disputed that the transfer took place. We accept Solo Network's statements in relation to this case.
19. Therefore, the ACMA finds that, on two occasions, Solo Network failed to keep records for two years that would enable a customer to verify that the transfer process was undertaken in accordance with Chapter 9 of the TCP Code.

The audio file provided by Solo Network contains evidence of a sales representative failing to use reasonable endeavours to ensure that Mr H consented to the transfer of his telecommunications service to Solo Network (clause 9.1.1 (a))

- The sales representatives did not use reasonable endeavours to ensure that Mr H consented to the transfer of his service because they persisted with the sale and transfer when it should have been clear to them that Mr H did not have the capacity to make an informed decision about transferring his service to Solo Network. For example, Mr H identified early in the call that he is elderly and forgetful, and it is clear from his interaction with the sales representatives that he does not properly hear and misunderstands statements by the sales representatives:

Mr H: *What are you talking about? The phone?*

First agent: *About your telephone that I'm calling you is the number that is (agent provided consumer's telephone number)*

Mr H: *(consumer provided a mobile number).*

First agent: *Sorry ...*

Mr H: *Oh no, that's my son in law's phone. Sorry. Oh look I'm 90 I forget everything.*

First agent: *So, your number is (agent provided consumer's telephone number) ok.*

Mr H: *That's right. Yes.*

First agent: *So that is why I am calling you. That is why you picked up the call as Mr H. Correct?*

Mr H: *Yes.*

....
Second agent: *Wonderful. You will be getting a discounted bill every month from Solo Network. Write the name. It's S as in Sugar, O, as in Oscar, L as in Lemur, and O as in Oscar, once again. It's Solo Network ok.*

Mr H: *Yes:*

Second agent: *So, every month you will be receiving a bill from your landline you will be receiving a bill of only \$34.95 every month. Ok.*

Mr H: *Good. Thank you.*

Second agent: *And, you are with the Telstra bill right? Telstra sends you a bill every month at your residential address right?*

Mr H: *They haven't been sending me a bill. No.*

Second agent: *Oh so they don't.*

Mr H: *I've gone and paid it.*

Second agent: *So, you go and pay the bills to the office?*

Mr H: *Yes, I've gone and paid the bills. Yes.*

Second agent: *Ok, and do you receive that bill on your email address as well?*

Mr H: *I don't have an email.*

Second agent: *Ok, so you don't receive any kind of bill with Telstra at your postal address?*

Mr H: *No, they don't send me a bill.*

Second agent: *Oh, they don't send you a bill.*

Mr H: *Yeah, you send me a bill and I will come and pay it. Is that alright.*

Second agent: *Yeah, yeah but I would like just to confirm that you are with Telstra right now I will be just needing your Telstra account number. No more than that, anything.*

Mr H: *Yes.*

Second agent: *So, if you can just help me with the Telstra account number it starts with 2000.*

Mr H: *Which number do you ...*

Second agent: *Telstra account number. you are an account holder of Telstra right. Telstra has given you an account number. If you can just help me with that. It*

starts with 2000 ... below your name you will see that the account number is there. The account number with Telstra it starts with 2000 ... Have you got that? Yeah, Mr H? Hello?

...

Second agent: *Ok, no worries for that. So, I believe that you have your Telstra account number right? Or, you don't have?*

Mr H: *A Telstra what?*

Second agent: *The Telstra account holder. You are the Telstra account holder, is that correct?*

Mr H: *Yes, yeah.*

Second agent: *So.*

Mr H: *I'm with Telstra.*

Second agent: *So you are with Telstra. And Telstra has given you an account number they send you every month a bill right, and the account number starts with 2000, if you can just ... do you have the account number with you?*

Mr H: *No, I don't.*

Second agent: *Oh you don't have that. No, worries for that. So, you understand sir that every month you will be receiving a bill. One which is for the landline which is for \$34.95 every month and for your mobile you just need to spend only \$25 every month, that's correct. Wonderful, and just to confirm that I am not talking to one of the minors can you just help me with your date of birth, how old are you?*

Mr H: *I am 2/12/1928. 90 years old.*

...

Second agent: *Wonderful, no worries for that. Well, I will just do a quick verification with you to confirm that I have not misguided or misled you to provide these services right and it will be started in a flash of time. So, do you have any question, or any doubts about this beautiful offer you are getting from Solo Network?*

Mr H: *No, no I'm right. Solar?*

Second agent: *Like, you are with Telstra right for your line.. everything will be with Telstra, but instead of getting a bill from Telstra you will be getting a discounted bill from Solo Network. Ok.*

Mr H: *Yes, yes.*

Second agent: *So, I will just do the verification with you.*

Case 7 - Ms B

The audio file provided by Solo Network contains evidence of sales representatives failing to sell in a fair, transparent, responsible and accurate manner to assist the consumer in making an informed purchasing decision (clause 4.5.1(a)).

The sales representative did not sell the new plan responsibly or fairly to Ms B as evidenced by:

- **Selling in a responsible manner.** A failure by the first agent, during the sales stage of the call, to inform Ms B that the purpose of the call was to transfer her existing telecommunications services to Solo Network. Ms B was only informed about the purpose of the call by a second agent during the verification stage which was towards the end of the call.
- **Selling in a responsible manner:** Although the consumer was advised by the sales agent at the start of the call that the agent is calling from Solo Network, the agent made statements that, by indicating a familiarity with Ms Blackman's account, gave a misleading impression that Ms B was dealing with her existing provider, including:

First agent: *Yeah, Hi, am I speaking to Ms B?*

Ms B: *Yes, you are. What do you want?*

First agent: *Hi Mrs B, this is Chris calling you from Solo Network in regards to your home telephone number which is (agent provided consumer's number) and please note Mrs B that this call is being recorded for the quality and training purposes. Well, Mrs B, the reason why I have called you is just to let you know that ... you are now eligible to get a discount of up to 40% on your monthly telephone bill. Ok, whenever you pay your bills on time and I believe, Mrs*

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<p><i>B you always try to do that you always pay your bills on time, right?</i></p> <p>Ms B: Yes, I do.</p> <p>First agent: <i>Lovely, well keep up the good work. Pay your monthly telephone bills on time as you are doing now and from your next billing onwards, whenever you will be doing that you will be directly getting discount of up to 40% on your monthly telephone bill. This simply means that your monthly telephone bills are now going to drop down to a much cheaper and lower price from now onwards, ok. But the discount, Ms B, will only be given to (inaudible) who are residents of Australia and here you are, alright. And secondly, who are over the age of 18 years but below the age of 80 years. I believe you are above the age of 18 and below the age of 80 years.</i></p> <ul style="list-style-type: none"> ○ Selling in a fair manner: A failure to inform Ms B that she may be required to purchase a new modem to support her new service until after the application to transfer her service had been completed by the second agent. 	
<p>Case 8 - Ms S</p> <p>The audio file provided by Solo Network contains evidence of sales representatives failing to sell in a fair, transparent, responsible and accurate manner to assist the consumer in making an informed purchasing decision (clause 4.5.1 (a)).</p> <p>The sales representative did not sell the new plan responsibly to Ms S as evidenced by a failure by the first agent, during the sales stage of the call, to inform Ms S that the purpose of the call was to transfer her existing telecommunications services to Solo Network. Ms S was only informed about the purpose of the call by a second agent during the verification stage which was towards the end of the call.</p>	1 Oct 2019
<p>Case 9 - Ms B</p> <p>The audio file provided by Solo Network contains evidence of sales representatives failing to sell in a fair, transparent, responsible and accurate manner to assist the consumer in making an informed purchasing decision (clause 4.5.1 (a)).</p> <p>The sales representative did not sell the new plan responsibly to Ms B as evidenced by:</p> <ul style="list-style-type: none"> ○ Selling in a responsible manner: A failure by the first agent, during the sales stage of the call, to inform Ms B that the purpose of the call was to transfer her existing telecommunications services to Solo Network. Ms B was only informed about the purpose of the call by a second agent during the verification stage which was towards the end of the call ○ Selling in a responsible manner: The agent making statements that, by indicating a familiarity with Ms Bennett's account, gave a misleading impression that Ms B was dealing with her existing provider, including: First agent: <i>Hi, Mrs B?</i> Ms B: <i>Yes, that's right.</i> First agent: <i>Well you're speaking to John from Solo Network in regards to your telephone services.</i> Ms B: <i>Yes</i> First agent: <i>Ok. Basically, the reason for this call Mrs B is just to inform you that from the next billing cycle you are eligible to get a discount on your total telephone bills.</i> Ms Bennet: <i>Alright.</i> First agent: <i>Exactly, which means from the next billing cycles you won't be receiving any more high and expensive bills for your telephone which you used to receive about near to \$55 to \$60. Because the bills are straight away going to drop to only \$34.95. Ok.</i> 	23 Sep 2019
<p>Case 10 - Ms P</p> <p>The audio file provided by Solo Network contains evidence of sales representatives failing to sell in a fair, transparent, responsible and accurate manner to assist the consumer in making an informed purchasing decision (clause 4.5.1 (a)).</p> <p>The sales representative did not sell the new plan responsibly to Ms P as evidenced by:</p>	9 Oct 2019

<ul style="list-style-type: none"> ○ Selling in a responsible manner: A failure by the first agent, during the sales stage of the call, to inform Ms P that the purpose of the call was to transfer her existing telecommunications services to Solo Network. Ms P was only informed about the purpose of the call by a second agent during the verification stage which was towards the end of the call. ○ Selling in a responsible manner: The agent made statements that, by indicating a familiarity with Ms Pollock's account, gave a misleading impression that Ms P was dealing with her existing provider, including: First agent: <i>The reason today, why I have called you is just to let you know that as you are paying your monthly telephone bills on time right, you are paying the monthly telephone bills on time?</i> Ms P: Yes. Agent: <i>Lovely, so just keep up the good work, pay your monthly telephone bills on time as you are doing now and you will now be getting a discount of up to 40% on your monthly telephone bills .. (inaudible) your monthly bills are going to drop down to a much cheaper and lower price from your next bill onwards, ok.</i> Ms P: <i>Thank you.</i> 	
<p>Case 11 - Mr S</p> <p>The audio file provided by Solo Network contains evidence of sales representatives failing to sell in a fair, transparent, responsible and accurate manner to assist the consumer in making an informed purchasing decision (clause 4.5.1 (a)).</p> <p>The sales representative did not sell the new plan responsibly to Mr S as evidenced by:</p> <ul style="list-style-type: none"> ○ Selling in a responsible manner: A failure by the first agent, during the sales stage of the call, to inform Mr S that the purpose of the call was to transfer his existing telecommunications services to Solo Network. Mr S was only informed about the purpose of the call by a second agent during the verification stage which was towards the end of the call. ○ Selling in a responsible manner: The agent made statements that, by indicating a familiarity with Mr Stone's account, gave a misleading impression that Mr S was dealing with his existing provider. First agent: <i>Hi Mr S, Mr S how are you?</i> Mr S: <i>Why?</i> First agent: <i>Mr S my name is Roger calling just to let you know that as you are using a number which is (provided consumer's number) and since you pay your bill every month on the right time that's the reason from now you're going to get up to 40% discount on your phone bill and you can see that your bill will be, that will be, you don't have to pay anymore \$110 dollar bill what you are paying (inaudible) that is \$59 dollar 95 cents from now and no line rental. Ok?</i> Mr S: <i>Thank you.</i> 	26 Sep 2019
<p>Case 12 - Ms C</p> <p>The audio file provided by Solo Network contains evidence of sales representatives failing to sell in a fair, transparent, responsible and accurate manner to assist the consumer in making an informed purchasing decision (clause 4.5.1 (a)).</p> <p>The sales representative did not sell the new plan responsibly or fairly to Ms C as evidenced by:</p> <ul style="list-style-type: none"> ○ Selling in a responsible manner: A failure by the first agent, during the sales stage of the call, to inform Ms C that the purpose of the call was to transfer her existing telecommunications services to Solo Network. Ms C was only informed about the purpose of the call by a second agent during the verification stage which was towards the end of the call. ○ Selling in a responsible manner: Although the consumer was advised by the sales agent at the start of the call that the agent is calling from Solo Network, the agent made statements that gave a misleading impression that Ms C was dealing with her existing provider, including: First agent: <i>Yeah, hi Mrs C you're speaking to Sam from Solo Network its in regards to your existing home phone number. The telephone number which you are using at the moment. So, Mrs C you will be glad to know that as you pay your telephone bill on time every month so from upcoming billing cycle onwards you are very much eligible to get up to a 40% discount on your total monthly telephone bill. So before I go ahead Mrs C I will tell you this call has been recorded for quality and training purpose. So, that is included your all free call all local call all interstate call included your NBN it will only cost you \$59.95. That</i> 	27 Sep 2019

sound good to you?

Ms C: I don't even know how much I am paying.

First agent: Because you are paying around \$70 ...

Ms C: What am I paying normally?

First agent: It is normally \$75 to \$80 dollar

Ms C: Oh right, I get you yeah right.

First agent: So dropping down to \$59.95 ok so that is (inaudible as speaking over the top of each other), yeah so why you are getting the discount because you are a senior citizen that's why the reason and I do believe that you are a senior citizen.

Ms C: Oh, yes I am I am in my 80's.

First agent: Yeah, that's why the reason because this discount all the customer who is a senior citizen even they are not using much more I like their telephone to make call and paying the high bill so yeah that is not \$75 dollar from next upcoming month onward it is only \$59.95 including your free all calls ok so I have my manager with me ...

Ms C: That sounds absolutely wonderful. Thank you so much.

First agent: So, I have my manager with me he will begins to verify I give you the right discount or not. So, just have a word with my manager. Ok.

- **Selling in a fair manner:** A failure to inform Ms C that she may be required to purchase a new modem to support her new service until after the application to transfer her service had been completed by the second agent.