

Investigation Report

File No.	ACMA2021/416
Carriage service provider	Southern Phone Company Limited
ACN	100 901 184
Scope of investigation	Compliance with clause 4.5.1 of the <i>Telecommunications Consumer Protections Code</i> C628:2019

Summary of findings

The Australian Communications and Media Authority (the **ACMA**) finds that Southern Phone Company Limited (**Southern Phone**) has contravened clause 4.5.1(c) of the Telecommunications Consumer Protections Code C628:2019 (the **TCP Code**) during the period 1 October 2019 to 30 September 2020 by failing to ensure its sales representatives were appropriately trained to promote and sell its products in a fair, transparent, responsible and accurate manner. The ACMA also therefore finds that Southern Phone failed to ensure its sales representatives promoted and sold products in that manner as required by clause 4.5.1(a) of that Code.

Background

1. The TCP Code is registered under Part 6 of the *Telecommunications Act 1997* (the **Act**) and sets out rules that apply to all carriage service providers (**CSPs**) that supply telecommunications products to residential and small business consumers.
2. Southern Phone is an Australian company that provides mobile phone, home phone and broadband services, which are listed carriage services¹, to residential and small business customers using network units. It is therefore a CSP within the meaning of section 87 of the Act and is a supplier for the purposes of the TCP Code.
3. On 20 November 2020, the ACMA issued Southern Phone with a notice under subsection 521(2) of the Act (the **Notice**). The Notice required Southern Phone to provide information and documents relevant to its compliance with the TCP Code. Southern Phone responded to the Notice on 12 January 2021 and 9 March 2021.
4. After considering Southern Phone's responses to the Notice, the ACMA commenced an investigation under paragraph 510(1)(c) of the Act, into Southern Phone's compliance with clause 4.5.1 of the TCP Code.
5. On 23 August 2021, the ACMA wrote to Southern Phone setting out the ACMA's preliminary view that Southern Phone had contravened that provision. Southern Phone was invited to respond by 6 September 2021.
6. On 6 September 2021, Southern Phone provided the ACMA with its submission in response.

¹ As defined in section 16 of the Act.

Findings and Reasons

7. In making its findings, the ACMA considered information gathered during the investigation and Southern Phone's submission of 6 September 2021.
8. Having assessed the evidence and information before it, the ACMA has found that Southern Phone contravened clause 4.5.1(c) of the TCP Code. The ACMA has also therefore found that Southern Phone failed to comply with clause 4.5.1(a) of the TCP Code. Details of the contraventions are set out below.

Clause 4.5.1 Responsible approach to selling

9. Under clause 4.5.1 of the TCP Code, a supplier must ensure their sales representatives:
 - a. promote and sell its telecommunications products in a fair, transparent, responsible and accurate manner to assist consumers in making informed purchasing decisions; and
 - b. clearly explain the key terms, conditions, and costs of the telecommunications products consumers are purchasing.
10. To enable this outcome, suppliers must take particular actions, including ensuring that the supplier's sales representatives are appropriately trained to promote and sell in a fair, transparent, responsible and accurate manner (clause 4.5.1(c)).
11. The ACMA is of the view that to comply with clause 4.5.1 by undertaking the training required by clause 4.5.1(c), suppliers need to ensure that all of their sales representatives, prior to selling, offering to sell, or otherwise promoting the supplier's telecommunications products, have successfully completed training in how to sell telecommunications products in a fair, transparent, responsible and accurate manner to consumers, including to consumers who are disadvantaged and/or vulnerable.
12. In response to the Notice, Southern Phone provided information to the ACMA about the training received by its sales representatives in the context of dealing with disadvantaged and/or vulnerable consumers. Southern Phone has advised that it ensures that its sales representatives sell its telecommunications products to disadvantaged or vulnerable consumers appropriately, by providing:
 - a. 'Don't Take Advantage of the Disadvantaged' training to all Southern Phone sales representatives
 - b. training focused on compliance in relation to consumers who may be experiencing financial hardship to all Southern Phone sales representatives
 - c. other induction and ongoing training to all staff, including an ethical sales training module
 - d. all Southern Phone staff with the 'Southern Phone Team Member Handbook' as part of the induction materials. Staff are also required to complete a Competition and Consumer Act (**CCA**) e-learning module on induction.

(collectively "**Southern Phone's formal training**")
13. The Notice required Southern Phone to provide information on the proportion of total sales representatives that had undergone Southern Phone's training in how to sell telecommunications products in a responsible manner to vulnerable consumers. In its response, Southern Phone:
 - a. advised that, as at 9 March 2021, *'57 per cent of sales representatives who were employed during the relevant period [1 October 2019 to 30 September 2020] have registered as having completed the 'Don't Take Advantage of the Disadvantaged' training...'*

- b. provided training completion registers relating to its financial hardship training and its CCA training
 - c. did not advise the number of sales staff that had ever completed other induction and ongoing training that included its ethical sales training module.
14. A review of Southern Phone's training completion registers, where training completion rates for sales staff were included, indicated that as at 30 September 2020:
- a. 90% of Southern Phone's sales staff had completed its financial hardship training
 - b. 91% of Southern Phone's sales staff had completed its CCA training.
15. In Southern Phone's submission it acknowledged that not all of its sales representatives had completed Southern Phone's formal training. Southern Phone submitted, however, that these completion rates did not fully reflect the extent to which sales staff were trained to promote and sell telecommunications products in a fair, transparent, responsible and accurate manner both as at 30 September 2020 and since that time.
16. Southern Phone submitted that in addition to Southern Phone's formal training, the ACMA should also consider the informal forms of training Southern Phone provides to its sales staff, that are fundamental to developing sales staff and ensuring they sell responsibly. It stated that its informal training includes:
- a. providing team leaders who are always available to answer any questions or address situations where a sales representative may need assistance
 - b. making online channels available so that sales representatives and team leaders actively assist each other throughout each day in respect of customer sales activities
 - c. maintaining a 'call listening' program in which team leaders listen to up to 10 random sales calls each week
 - d. undertaking formal check-ins once a month with each sales representative
 - e. ensuring that regular team updates are held to discuss various issues
 - f. implementing follow-ups, which occur when a team leader or manager receives feedback that a sales representative may have made an error. These are used by team leaders as a coaching opportunity.
- (collectively "**Southern Phone's informal training**")
17. Southern Phone further advised in its submission, in relation to sales staff that had completed its ethical sales training module, there was significant overlap between the CCA training and the ethical sales module.
18. Southern Phone submitted that the training it provided to its sales representatives for the purposes of complying with clause 4.5.1(c) of the TCP Code was comprised of formal and informal training.
19. The ACMA is of the view that, in order to comply with the requirement in clause 4.5.1(c) to ensure that its sales representatives are appropriately trained, all of Southern Phone's sales representatives should have completed Southern Phone's training prior to selling, offering to sell, or otherwise promoting telecommunications products to consumers.
20. The ACMA acknowledges that sales representatives may obtain skills relevant to the obligations in clauses 4.5.1(a) and (b) of the TCP Code from a range of on-the-job experiences, including what Southern Phone identifies as 'informal training'. The ACMA also notes that much of Southern Phone's informal training is more accurately described as a combination of ongoing monitoring (as required by clause 4.5.1(d)) and staff support rather than training.

21. Clause 4.5.1(c) requires a more structured approach to training when it specifically imposes on Southern Phone the obligation to ensure that its sales representatives are appropriately trained to promote and sell in a fair, transparent, responsible and accurate manner. The informal training referred to by Southern Phone is not a substitute for more formal training specifically framed to achieve the objects set out in clause 4.5.1 which is undertaken prior to sales representatives selling, offering to sell, or otherwise promoting telecommunications products to consumers.
22. The ACMA considers that, as all sales representatives had not completed Southern Phone's formal training, during the period 1 October 2019 to 30 September 2020, Southern Phone had not appropriately trained its sales representatives to promote and sell in a fair, transparent, responsible and accurate manner, as required by clause 4.5.1(c) of the TCP Code and it therefore failed to ensure that its sales representatives promoted and sold products in that manner as required by clause 4.5.1(a).