

Final investigation report

Summary	
Entity	Modica Group Limited
Type of service	Carriage service provider
Relevant code	Industry code C661:2022 Reducing Scam Calls and Scam SMS
Findings	Breach of Section 5.2.2 and 6.1.1(b)
Date	13 January 2023

Findings

The Australian Communications and Media Authority (the **ACMA**) has found that Modica Group Limited (**Modica**) has contravened clause 5.2.2 and 6.1.1(b) of the Industry Code C661:2022 Reducing Scam Calls and Scam SMS (the **Code**).

Reasons

1. The ACMA's findings are informed by information and documents provided by Modica on:
 - a. 13 September 2022 in response to a notice given to it by the ACMA under section 521 of the *Telecommunications Act 1997* dated 18 August 2022
 - b. 21 September 2022 in response to a request for additional information on 13 September 2022
 - c. 25 November 2022 in response to a request for further clarification on 22 November 2022.
 - d. 19 December 2022 in response to the ACMA's preliminary findings.

Relevant Background

2. The Code places obligations on all carriers and carriage service providers (C/CSPs) to implement measures to protect consumers from harms caused by scams and to disrupt scam activity in Australia.
3. Among other obligations, the code places obligations on C/CSPs not to originate short message (**SMS**) traffic on their networks using Alphanumeric Sender IDs without taking steps to confirm that the A-Party has a valid use case for the Alphanumeric Sender ID.

Compliance with clause 5.2.2 – Improving Number and Alphanumeric Sender ID Accuracy

4. Clause 5.2.2 of the code states:

If a SM uses an Alphanumeric Sender ID, Originating C/CSPs must only originate SMS on their Telecommunications Network using an Alphanumeric Sender ID where:

a) it does not present as a Number; and

b) the Originating C/CSP has been provided evidence by the A-Party confirming that the A-Party has a valid use case for the Alphanumeric Sender ID.

5. Clause 2.2 of the code states Alphanumeric Sender ID means a personalised identifier (for example, the name of a business or organisation) instead of a Number.
6. To determine Modica's compliance, the ACMA has addressed the questions set out in Table 1 below.

Table 1: Conditions for originating SMSs using Alphanumeric Sender ID

Is Modica a CSP?	<p>Yes.</p> <p>Modica is an SMS Aggregator and for commercial reward, has arranged for supply of listed carriage services, namely short message services (SMS), by another CSP, to its customers.</p> <p>As such, Modica is a CSP as defined in the Code as it is a CSP intermediary as defined at section 87(5) of the Act.</p> <p>Accordingly, Modica must comply with clause 5.2.2 of the Code.</p>
Has Modica originated SMSs on its telecommunications network using Alphanumeric Sender IDs where it does not present as a number?	<p>Information obtained from Modica on 13 and 21 September 2022 indicates that Modica allowed its A-Party customers to use Alphanumeric Sender IDs to send SMSs originated on its telecommunications network during the period 12 July 2022 to 25 November 2022.</p>
Was Modica provided evidence by the A-Party confirming that the A-Party had a valid use case for the Alphanumeric Sender ID?	<p>Information obtained from Modica on 13 September 2022 confirms that its A-Party customers can insert Alphanumeric Sender IDs without notice to Modica.</p> <p>Information obtained from Modica on 21 September 2022 indicates that it has a small-scale solution that blocks specific high-risk Alphanumeric Sender IDs from being sent by A-Parties without the correct authorisation. However, Modica states that generally customers are able to use any Alphanumeric Sender ID they wish, within the bounds of its policies, which were obtained by the ACMA.</p> <p>The policies do not contain any specific information on the use or blocking of Alphanumeric Sender IDs.</p> <p>Therefore, Modica was not provided with evidence by A-Parties confirming that they had a valid use case for use of Alphanumeric Sender IDs during the period 12 July 2022 to 25 November 2022.</p>

7. Accordingly, the ACMA finds that Modica has not complied with clause 5.2.2 of the Code.

Compliance with clause 6.1.1 – Reporting

8. Clause 6.1.1(b) of the clause states:

C/CSPs must, within 20 Business Days of the end of each calendar quarter, report to the ACMA: (b) For Scam SMSs, in the format and detail specified in Appendix E.
9. To determine Modica's compliance, the ACMA has addressed the questions set out in Table 2 below.

Table 2: Reporting obligations

Is Modica a CSP?	<p>Yes. See Table 1 above.</p> <p>Accordingly, Modica must comply with clause 6.1.1(b) of the Code.</p>
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<p>Did Modica, within 20 Business Days of the July to September calendar quarter, report to the ACMA the number of scam SMS it blocked.</p>	<p>The ACMA did not receive a report from Modica on the number of scam SMS blocked for the July to September 2022 calendar quarter within 20 business days from the end of that quarter, that is, by Friday 28 October 2022.</p> <p>The ACMA received a report of the number of scam SMS blocked by Modica between 1 July 2022 and 31 October 2022 on 19 December 2022.</p>
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10. Accordingly, the ACMA finds that Modica did not comply with clause 6.1.1(b) of the Code.

Conclusion

11. The ACMA finds that Modica did not comply with clause 5.2.2 and 6.1.1(b) of the Code.