

24 March 2023

Investigation Report

File No.	ACMA2022/771
Carriage service provider	Telstra Corporation Limited
ACN	051 775 556
Scope of investigation	Compliance with clause 6.7.1 of the Telecommunications Consumer Protections Code C628:2019

Summary of findings

The Australian Communications and Media Authority (the **ACMA**) finds that, between 10 May and 19 July 2022 (the **relevant period**), Telstra Corporation Limited (**Telstra**) contravened clause 6.7.1 of the Telecommunications Consumer Protections Code C628:2019 (the **TCP Code**) on 5,410 occasions, because it did not give 5,410 customers at least 5 working days' notice prior to the restriction or suspension of their telecommunications service for credit and/or debt management reasons, in circumstances where none of the relevant exceptions in clause 6.7.1(a) applied.

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 customers. CSPs who are subject to the TCP Code are called 'suppliers' in the TCP Code. The ACMA has investigated Telstra's compliance with clause 6.7.1 of the TCP Code during the relevant period under Part 26 of the Act.
2. On 31 October 2022, Telstra provided its response to a statutory notice issued to it under subsection 521(2) of the Act, requiring information and documents relating to the restriction, suspension and disconnection of customer telecommunications services for credit and/or debt related reasons. In responding to that notice, Telstra reported that it failed to send notices to 5,410 unique customer accounts advising of Telstra's intention to restrict or suspend the service for credit and/or debt related reasons, during the relevant period (**Telstra's initial report**).
3. On 30 November 2022, Telstra provided further information about the cause of the failure, the cohort of impacted customers, and the remediation action taken (**Telstra's detailed notification**).
4. Relevantly, Telstra reported that it identified 5,410 instances where customers had their services restricted or suspended during the relevant period without receiving the required notification. Telstra advised that the issue affected customers for whom Telstra did not have a valid email address and therefore required the notice to be sent by postal letter. Telstra explained that it creates a customer contact list which is then forwarded to its mail house provider to generate the letters by post, however an intermittent issue prevented the correct customer dataset (containing the customer contact list) from being uploaded in its system and subsequently forwarded to its mail house provider.
5. On 9 February 2023, the ACMA provided Telstra with its preliminary view that it contravened clause 6.7.1 of the TCP Code. On 24 February 2023, Telstra advised that it accepted the ACMA's preliminary findings that it had breached the TCP Code.

6. In the course of this investigation, the ACMA examined information provided in:
 - > Telstra's initial report
 - > Telstra's detailed notification
 - > Telstra's submission to the ACMA's preliminary findings.

Findings and reasons

7. In accordance with the requirements set out in clause 6.7.1 of the TCP Code, suppliers must ensure that customers are given adequate notice regarding a decision by the supplier to restrict, suspend or disconnect their telecommunications service for credit and/or debt related reasons.

TCP Code – Clause 6.7.1 (prior notice of restriction, suspension, or disconnection action)

8. Under clause 6.7.1 of the TCP Code, a supplier must give the customer at least 5 working days' notice prior to the restriction, suspension or disconnection of the telecommunications service for credit and/or debt management reasons, unless:
 - (i) the supplier assesses that the customer or the account status presents an unacceptably high credit risk to the supplier;
 - (ii) the supplier reasonably suspects fraud or attempted fraud; or
 - (iii) the customer has nominated to the supplier a restriction point and the customer has reached that restriction point (see clause 6.7.1(a)).
9. 'Restriction' is defined in the TCP Code to mean where access to one or more of a supplier's available telecommunications products or an aspect of those telecommunications products is limited (clause 2.1).
10. 'Suspension' is defined in the TCP Code to mean the prevention of access to a telecommunications service, except to emergency service numbers, by the supplier (clause 2.1).
11. 'Credit management' is defined in the TCP Code to mean the process by which a supplier helps customers to manage their expenditure on telecommunications services, manages any credit risk to the supplier, and collects outstanding debts from customers, and former customers (clause 2.1).
12. To determine Telstra's compliance with clause 6.7.1 of the TCP Code, the ACMA has assessed the following questions:
 - > During the relevant period, was Telstra a CSP within the meaning of the Act and a supplier for the purposes of the TCP Code?
 - > Did Telstra fail to give at least 5 working days' notice prior to the restriction, suspension or disconnection of a customer's telecommunications service for credit and/or debt management reasons?
 - > If Telstra failed to provide the required notice, did any of the 3 exceptions to clause 6.7.1 of the TCP Code apply?

During the relevant period, was Telstra a CSP within the meaning of the Act and a supplier for the purposes of the TCP Code?

13. Yes. During the relevant period, Telstra supplied internet and telephone services, which are listed carriage services,¹ to residential and small business customers. At that time, Telstra was therefore a CSP within the meaning of section 87 of the Act and a supplier for the purposes of the TCP Code.

Did Telstra fail to provide at least 5 working days' notice prior to the restriction, suspension or disconnection of the telecommunications service for credit and/or debt management reasons?

14. Yes. Telstra's initial report and detailed notification advised that it failed to send the required notice to 5,410 customers during the relevant period. Telstra advised in its detailed notification that the customers had their services restricted or suspended due to non-payment of bills.

15. Of the 5,410 customers affected during the relevant period, Telstra explained that:

- > 5,245 customers had their services restricted and 165 customers had their services suspended.
- > 4,283 customers' services were automatically resumed on average 7 days after the restriction or suspension because the customer acted (for example, the customer paid their bill and their service restriction was subsequently automatically lifted).
- > 1,030 customers' services were resumed following a bulk resumption of accounts on 1 August 2022 by Telstra. This was on average 31 days after the restriction or suspension.
- > 97 customers' services were not resumed as they were not included in the 1 August 2022 bulk resumption of accounts. Telstra advised that these customers had progressed further along the collections process and had subsequently received appropriate restriction notifications during that process.

If Telstra failed to give customers at least 5 working days' notice prior to the restriction, suspension or disconnection of the telecommunications service for credit and/or debt management reasons, did any of the 3 exceptions to clause 6.7.1 of the TCP Code apply?

16. No. The ACMA has no information before it to be satisfied that an exception set out in clause 6.7.1(a) of the TCP Code applied in any of the 5,410 instances.

17. For the above reasons, the ACMA is of the view that, during the relevant period, Telstra contravened clause 6.7.1 of the TCP Code on 5,410 occasions, because it did not give 5,410 customers at least 5 working days' notice prior to restricting or suspending their telecommunications service for credit and/or debt management reasons, and where none of the exceptions in clause 6.7.1(a) applied.

¹ As defined in section 16 of the Act.