

Investigation Report

File No.	ACMA2022/476
Carriage service provider	Aussie Broadband Limited
ACN	132 090 192
Scope of investigation	Compliance with clause 3.2.1 of the Telecommunications Consumer Protections Code C628:2019.

Summary of findings

The Australian Communications and Media Authority (the **ACMA**) finds that Aussie Broadband Limited (**Aussie Broadband**) contravened clause 3.2.1 of the *Telecommunications Consumer Protections Code C628:2019* (the **TCP Code**) on 5,287 occasions by sending usage notifications to 3,248 customers that contained information that was not accurate or current on 16 April 2022.

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.
2. On 7 June 2022, the ACMA received a complaint from a consumer alleging that they had received an incorrect usage notification from Aussie Broadband.
3. On 19 August 2022, the ACMA commenced an investigation into Aussie Broadband's compliance with the TCP Code.
4. On 13 October 2022, the ACMA sent its preliminary findings report to Aussie Broadband and invited it to respond. On 24 October 2022, Aussie Broadband provided a submission in response.
5. In the course of this investigation, the ACMA considered information provided by Aussie Broadband on 17 August, 30 September and 24 October 2022. This information included advice from Aussie Broadband that it experienced an IT system fault that led to the system erroneously recording that a customer had exceeded their data usage when the customer had not. Aussie Broadband advised that this error resulted in 5,287 inaccurate usage notifications being sent to 3,248 customers on 16 April 2022.

Findings and reasons

TCP Code – Clause 3.2.1

6. Under clause 3.2.1 of the TCP Code, a supplier must ensure that any information provided or made available to consumers is clear, accurate, free of material omissions, relevant, current, readily available, and, in cases where information is provided, timely.
7. To determine Aussie Broadband's compliance with clause 3.2.1 of the TCP Code, the ACMA has assessed the following questions:

- > Is Aussie Broadband a CSP within the meaning of the Act and a supplier for the purposes of the TCP Code?
- > Were the 3,248 recipients of the usage notifications consumers for the purposes of the TCP Code?
- > Did Aussie Broadband fail to provide information to consumers that was clear, accurate, free of material omissions, relevant, current, readily available and timely?

Is Aussie Broadband a CSP within the meaning of the Act and a supplier for the purposes of the TCP Code?

8. Yes. Aussie Broadband supplies internet and telephone services, which are listed carriage services¹, to residential and small business customers. Aussie Broadband is therefore a CSP within the meaning of section 87 of the Act and a supplier for the purposes of the TCP Code (clause 2.1).

Were the recipients of the usage notifications consumers for the purposes of the TCP Code?

9. Yes. Aussie Broadband advised that the 3,248 recipients of the usage notifications were customers that had entered into an arrangement or agreement with Aussie Broadband for the supply of a telecommunications product in the form of a broadband plan with an included data allowance. The recipients were therefore Aussie Broadband consumers within the meaning of clause 2.1 of the TCP Code.²

Did Aussie Broadband fail to provide information to consumers that was clear, accurate, free of material omissions, relevant, current, readily available and timely?

10. Yes. In its response of 30 September 2022, Aussie Broadband advised that it sent 5,287 inaccurate usage notifications to 3,248 customers.
11. Therefore, the information provided to consumers in the usage notifications was neither accurate nor current as it did not reflect the consumers' actual data usage.
12. For the above reasons, the ACMA finds that on 16 April 2022, Aussie Broadband contravened clause 3.2.1 of the TCP Code on 5,287 occasions by sending usage notifications to 3,248 customers that contained information that was neither accurate nor current.

¹ As defined in section 16 of the Act.

² The definition of Consumer in clause 2.1 of the TCP Code includes 'a reference to a Customer.' Customer means a Consumer who has entered into a Customer Contract with a Supplier. A Customer Contract is an arrangement or agreement between a Supplier and a Consumer for the supply of a Telecommunications Product.