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In the spirit of reconciliation the Communications Alliance acknowledges the traditional Custodians of country throughout Australia and their connections to land, sea and community. We pay our respect to their elders past and present and extend that respect to all Aboriginal and Torres Strait Islander peoples today.

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From: John Stanton
Sent: Thursday, December 14, 2023 12:47 PM
To: OfficeoftheChair@acma.gov.au
Cc: craig.riviere@acma.gov.au; Peppi Wilson <p.wilson@commzalliance.com.au>
Subject: TCP Code – your letter of 5 July, ACMA ref: ACMA2022/17

Please find attached Communications Alliance Telecommunications Consumer Protections (TCP) Code Review 2024 package.

John Stanton
CEO | Communications Alliance Ltd | Level 12/75 Miller St | North Sydney NSW 2060
M: 0434 318 777 | stanton@commsalliance.com.au | www.commsalliance.com.au

I acknowledge the Traditional Custodians of the lands on which I work and reside, the Gadigal People of the Eora Nation, and I pay my respects to their Elders, past, present, and emerging.

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15 December 2023

To: Ms Nerida O'Loughlin PSM
Chair and Agency Head
Australian Communications and Media Authority

By email: OfficeoftheChair@acma.gov.au

cc: Craig Riviere

Dear Nerida,

RE: TCP Code – your letter of 5 July, ACMA ref: ACMA2022/176

In July, you wrote to Communications Alliance (CA) to acknowledge the launch of our TCP Code review process and request that, by 15 December, we provide *“definitive and agreed views from CA and its members on the changes it will make to the TCP Code”* to address six *“key areas of concern”*, with such advice to *“include draft revised proposed code provisions to give confidence to the regulator of the effectiveness of CA’s proposed approach.”*

You also advised us of Minister Rowland's intent to instruct the ACMA to make a Financial Hardship Standard.

The six areas of concern highlighted in the letter and set out in more detail in the accompanying position paper *What consumers want – consumer expectations for telecommunications safeguards* were:

1. selling practices,
2. credit assessments,
3. payment methods,
4. disconnection processes,
5. financial hardship assistance, and
6. treatment of customers in vulnerable situations.

This letter and accompanying papers ('TCP Code package') detail the definitive and agreed views of CA and its members on the changes CA proposes to make to the TCP Code to address the areas of concern that you highlighted, with the draft revised and new code provisions to address these key concerns.

Details of the process we have followed to date are also provided, and we will continue to follow if Code drafting continues. This substantially revised process was designed in late 2022 to address feedback on previous Code review and revision processes. A key aim was to allow the TCP Code Drafting Committee (DC) to identify the key concerns, understand and analyse the different stakeholder perspectives, and work to address issues in an inclusive, open, transparent and consultative way

that reasonably balances the divergent views of all stakeholders. The process undertaken in practice was modified to accommodate the shorter timeframe set by the ACMA and the concurrent drafting of a financial hardship standard. While we have maintained the key elements of the first steps of the planned new process, with a detailed review and analysis of issues and an iterative drafting process, we have not been able to undertake the in-depth one-on-one consultation that was initially envisaged and have had to impose less than ideal feedback timeframes on industry members and the TCP Code Review Committee (RC).

Despite different positions at this stage on some issues with non-industry stakeholders and ongoing work needing to be undertaken to move to a formal draft industry Code, in our view, considerable progress has been made. This is, in no small part, a consequence of the constructive engagement of all stakeholders, which we wish to acknowledge.

The following items are included as part of the TCP Code Package, as prepared by the DC:

- **this letter**, which includes the following addendum: Code review and revision process;
- **a TCP Code 'compendium'** - a pdf that includes the following documents:
 - an **introduction and 'map'** to clearly show how the Agreed Industry Position Papers relate to the six key 'areas of concern';
 - **13 Agreed Industry Position Papers, with draft revised proposed code provisions** included within each as relevant. These papers:
 - outline the identified consumer **issue**, considerations for Code revision and desired outcome;
 - include **background** on **existing relevant obligations** (in the TCP Code and other instruments) and **document stakeholders' positions** on the issue, as stated in their submissions to the review process/other relevant forums and at the RC meetings; and
 - outline the **agreed industry position** on how these key concerns can reasonably be addressed in a way that balances the divergent views of all stakeholders, with the draft revised (and new) proposed code provisions.

Note: the Scope paper explains CA's agreed preferred position. However, the scope of the TCP Code will likely mirror the Financial Hardship Standard, which, at the time of writing, is yet to be finalised. Other details will similarly depend on the completion of the FH Standard. Refer to the *Addendum: Code review and revision process* for further information.

- **a draft refreshed TCP Code 'outline'**, showing:
 - the new Code structure,
 - a non-exhaustive list of agreed draft **outcomes and expectations** for each chapter,
 - reference to **key new draft proposed code provisions** relevant to each chapter (with the actual draft new proposed provisions included in *Agreed Industry Position Papers*),
 - reference to relevant existing Code obligations (non-exhaustive), and

- one whole, new proposed draft chapter to assist you in visualising the finished Code.
- a **stakeholder feedback comment** log – a spreadsheet with comments received on the 'final draft position papers' – and clear information on how comments were dealt with.

Note: the spreadsheet is provided in PDF format. It is available on request as an Excel spreadsheet, where each topic is presented on a different tab. This is not printer-friendly but is easier to navigate as a soft copy.

- Approved minutes from all 4 RC meetings have been attached.

I also enclose Comms Alliance's Paper: Proposed regulatory reform package (June 2023). Although not part of the TCP Code Package, this is relevant to the discussions.

Please note that the whole package is designed to be read and considered as a whole. Comms Alliance consider that it is crucial that the ACMA appreciate this point. As the draft refreshed TCP Code should demonstrate, considerable work has been undertaken in restructuring the Code not only to make it more user-friendly but also to seek to maximise compliance. The ACMA's statement of consumers' expectations has evolved into a concise statement of consumer outcomes for each chapter. Carriage service providers (CSPs) now have clear statements of expectations and guidance where appropriate to provide context for the enforceable rules that follow.

Individual parts of the package read in isolation capture only part of the proposed solution; most issues require a multi-pronged approach, with different requirements to address the issue included across different parts of a provider's organisation and different points of a customer's journey. Solutions are reflected in different *Agreed Position Papers* and different parts of the Code outline. Existing rules, as well as new ones, will need to be positioned to reflect these new overall objectives in the new Code.

Should the Authority have questions about any aspect of this package, please do not hesitate to contact Peppi Wilson, Senior Manager, Policy and Regulation (p.wilson@commsalliance.com.au), or me. Should there be any specific issues of concern, we would appreciate the opportunity to understand and respond to them before the Authority finalises its decision on the next steps. In the interim, we will continue to work on progressing the Code to ensure we can meet the June deadline.

Yours sincerely,



John Stanton
Chief Executive Officer

Addendum: Code review and revision process

PRE-JULY 2023 – NEW REVIEW AND REVISION PROCESS DEVELOPED, CONSULTED ON AND LAUNCHED

The following work was completed/well underway before the scope/timeline change (resulting from the ACMA July 2023 letter).

TCP Code industry group established. An industry working group was established in November 2022. This subsequently became the 'Drafting Committee' (DC). It started to consider the Code's structure, metrics and expectations, in line with the ACMA Statement of Expectations (SOE), and to design a new review and revision process.

Redesigned review and revision process. Informal discussions with stakeholders that began in 2022 led to CA developing a new 3-step consultation and revision process. This was designed to address stakeholders' thoughts on how to improve on previous processes, with key features including:

- a considerably longer consultation process, with multiple opportunities for deep engagement with individual stakeholders on issues specifically relevant to *them*, designed to allow problems and possible solutions to be properly and efficiently understood by the appropriate parties and appropriately addressed,
- increased transparency of the process, submissions and information about each stage publicly available and shared with a new Review Committee (RC) comprising senior representatives from key stakeholder groups (Terms for Reference are available [here](#)),
- increased independence of the process, with the engagement of an independent adviser (IA) tasked to provide independent oversight of the process, engaging directly with stakeholders at his discretion, report regularly to the Communications Alliance Board and provide advice to the ACMA at the time it is considering whether to register the draft revised Code ([IA Terms of Reference](#)).

The announced three-step process was:

Stage 1: information gathering

Pre-code-drafting stage information-gathering exercises to set the foundations for the rest of the review:

- discussion paper
- one-on-one discussions, open invitation.

Stage 2: iterative code drafting

Information gathered through the first stages of the review is to be used to inform initial drafting by a small industry Drafting Committee (DC), to be further developed and refined through an iterative drafting process, with stakeholders regularly engaged to ensure that their individual issues and concerns are understood. Engagement to take place via a number of mechanisms, including:

- Review Committee meetings,
- deep engagement and liaison with an Independent Adviser (IA),
- direct, one-on-one engagement between the Drafting Committee and individual stakeholders on issues of direct interest to that stakeholder,

- report summaries made available online, and
- opportunities for direct engagement with the IA.

Stage 3: formal consultation

The final stage involves the more formal release of a 'revised draft Code', which will be subject to the formal processes required of the Code development process, including a mandatory public comment period.

NOVEMBER 2022 – COMMENCEMENT STAGE 1: INFORMATION GATHERING

Code review begins. The DC began considering how known issues concerning the Code's structure might be addressed. In line with the ACMA SOE, the DC started to test a new Code structure as it began to work through the substantial body of inputs to the Code review.

Acknowledging the high interest rates, rising inflation and general cost-of-living pressures, it focussed on vulnerability and financial hardship issues, which it included as a separate chapter in a draft restructured outline.

Information gathering. A comprehensive public discussion paper was drafted in early 2023 and launched in May. This set out the expected process and timeframe for the review and, without limiting the scope of the input and content for review, flagged key known issues that would be addressed in the review, including:

- an increased focus on protections for vulnerable consumers:
 - addressing the AMCA statement of expectations (SOE),
 - the inclusion of domestic and family violence (DFV) provisions (taking key clauses from our recently strengthened guideline on domestic and family violence; an intention clearly flagged as part of that process and communicated both publicly and directly to the relevant parties¹ accordingly in response to their feedback on that Guideline),
- updating numerous outdated and unclear provisions,
- consideration of whether the Code's purpose and scope are adequately described and communicated to relevant stakeholders,
- consideration of the effectiveness of current Code compliance and reporting obligations (with a flagged intent to consider the effectiveness and appropriateness of including clear 'consumer outcomes', paired with appropriate compliance program/reporting metrics and measures),
- comment on any other issues was also welcomed.

¹ ACCAN/CALC/WEjustice provided comments directly to Comms Alliance as part of the multistep review on its DFV Guideline. Where feedback related to making specific clauses mandatory, Communications Alliance clearly indicated its intentions, with the following response provided to those stakeholders at the time. This intent was also publicly announced through the DFV Guideline launch. *This document is a best practice voluntary guideline, not a mandatory Code supported by relevant regulatory instrument(s) and is, therefore, not the right instrument to include new mandatory requirements. The mandatory provisions already in the guideline (the 'musts') already have relevant regulatory backing (being requirements of Codes or other regulatory instruments).* However, we appreciate this feedback as it helps us focus on the elements of the Guideline that we should codify to enhance protections for vulnerable consumers in the upcoming TCP Code review. (We have already announced our intention to include specific provisions in the TCP Code for those affected by DFV).
We will update the relevant clauses in the Guideline to reflect the new TCP Code once that process is complete.

The Discussion Paper was pushed out to a list of stakeholders (the ACMA was consulted to ensure appropriate coverage). Details of the Code review and revision process were also included on the CA [website](#) and advertised through other fora.

Michael Cosgrave appointed as IA for the Code's review and revision. The appointment as IA of former ACCC head of telecoms, Michael Cosgrave, was formally announced in June 2023. However, Michael provided comment to CA on issues before this date (including on the draft discussion paper, before it was launched). (The formal announcement was delayed because of procedural ACMA issues.)

Stage 1 input: Discussion paper. Responses to the discussion paper were requested by 6 June but continued to be accepted after that deadline, with late submissions arriving from a number of parties. The final submission was received in early July.

Nine submissions were received. Eight were made public (via the CA [website](#)):

- | | | |
|-------------|----------------------|---------------------|
| • ACCC | • Internet | • TIO |
| • ACCAN | • Association of | • OAIC (staff level |
| • CommCom | • Australia (IIA) | only – not |
| • D Havyatt | • 2 private citizens | public). |

Stage 1 input: One-on-one meetings. Two submitters requested one-on-one meetings as part of this initial 'information gathering' stage of the process.

Stage 1 input: Other inputs. The DC began analysing dozens of reports, speeches, papers, etc., from the previous two years to allow it to understand other issues relevant to the review, including.

- ACCAN's referenced earlier submissions (incl CALC, etc) + conference speeches,
- ACCAN/CALC/WEjustice comments to CA regarding the DFV Guideline and other issues,
- ACMA SOE, discussions with the ACMA on various issues, incl. 'digital only'
- TIO Reports + speeches
- CommCom feedback
- Industry feedback
- Other industry and international consumer protection obligations and best practice.

Analysis of inputs received from stage 1. Input from stage 1 (all sources) was summarised into spreadsheets to allow the DC to sort by topic and methodically work through each issue.

JULY 2023 - NEW SCOPE AND TIMELINES SET FOR TCP CODE REVIEW

ACMA Letter. In July 2023, Minister Rowland announced her intent to instruct that a Financial Hardship Standard be drafted. The ACMA also wrote to CA to outline its key six areas of concern and to ask for "definitive and agreed views from CA and its members on the changes it will make to the TCP Code... [to address the issues raised]... by 15 December", including, "draft revised proposed code provisions to give confidence to the regulator of the effectiveness of CA's proposed approach."

CA's formal update to RC and invitation to first meeting. CA formally invited organisations to its first RC meeting. The letter also provided a comprehensive update on the process and progress to date (how/when/why a new process was developed; an update on submissions received, a comprehensive list of inputs considered as part of the review; anticipated changes as a result of the 'ACMA letter'.

AUGUST 2023 – COMMENCEMENT STAGE 2: ITERATIVE CODE DRAFTING – MODIFIED APPROACH

Stage 2 of the new revision process began in August 2023, with modifications made to meet the ACMA's new timeframe (notably: shortened engagement, fewer opportunities for the envisaged in-depth consultation) and scope (work undertaken on the financial hardship (FH) chapter was now out of scope and not relevant. As FH provisions apply throughout the Code, overall scope uncertainties have also created challenges.

DC meetings. The DC met twice per week, as it reviewed and analysed the inputs collected in Stage 1, commenced the initial iterative Code drafting work, and developed Issues Papers for the RC.

Review Committee meetings. Four RC meetings took place between 5 September and 28 November. Key issues identified through the information-gathering stage were discussed at each (see below), with **additional input encouraged in writing at any stage**. Discussion about the papers is **clearly recorded in the RC Minutes** (provided as a separate attachment). It was also used to **update the issues papers as they transitioned to position papers and then to agreed industry positions** (see below for more information).

Engagement with individual stakeholders on issues of direct interest to that stakeholder. CA met with the following stakeholders between RC meetings: Office of the Australian Information Commissioner (OAIC), First Nationals Digital Inclusion Advisory Group (FNDIAG), Intopia (accessibility experts), CommCom, AMTA, individual representatives of the RC (e.g. the ACMA), the IA, CA members. Input from these discussions was reflected in discussions and issues/position papers.

Note: OAIC and FNDIAG were both invited to join the RC.

Discussion of key issues – Issues Papers. Analysis of inputs to Stage 1 by the DC resulted in the following outputs, which were provided to the RC:

- i) **Summary tables** – summaries of all the issues raised in the various review inputs, with very preliminary Drafting Committee (DC) comments. (Shared on the [CA website](#) in line with our commitment to transparency of process.)
- ii) **Issues papers** focussing on the key identified areas of concern. Designed for **guided discussion**, these set out:
 - a. **the issue** (identified consumer problem; considerations for code obligation drafting; desired outcome from TCP Code revision),
 - b. **background** (summary of exiting obligations; comments from submissions to the review/related inputs), and
 - c. **proposed approach** (how the DC proposed to address the issue in a way that reasonably balanced the divergent views of all stakeholders).

Fourteen separate key issues were identified and presented to the RC over the first three meetings. Papers generally have been provided to the RC in advance of each meeting. Comment was also welcomed out of session.

Eleven issues papers mapped directly to the ACMA 6 key issues:

- selling policies,
- essential information,
- mobile network coverage,
- credit assessments,
- payment methods,
- credit and debt management,
- vulnerable consumers (overarching),
- domestic and family violence,
- languages,
- accessibility,
- customer service.

Two related to the overarching success of the Code:

- code structure and measurements of success
- scope and application

and one related to an additional critical issue identified by the DC (that did not map to the 'ACMA' issues):

- privacy and record keeping

Position Papers. Issues Papers were developed by the DC into 'Position Papers', which:

- incorporated additional feedback from the RC and other stakeholders,
- where applicable, including revisions to the DC's 'proposed approach' (changed or narrowed, where different options were presented in the initial paper),
- included sample clauses to reflect the proposed approach in drafting.

As the RC Minutes show, proposals outlined in the Issues Papers received a generally positive response. However, the RC emphasised that it was difficult to fully comprehend and consider the proposals and proposed approach without seeing the drafting in context.

Notwithstanding the significant time pressures, the DC committed to providing a 'draft package' to the RC prior to anything being sent to the ACMA Authority to allow it to better understand the proposals in context and provide meaningful, constructive comments that could be considered before finalising the pack for the December 15 deadline.

17 NOVEMBER – DRAFT PACKAGE CIRCULATED TO RC FOR FEEDBACK

On 17 November, a draft 'TCP Code package' was sent to all RC participants (industry and other) and other CA members as appropriate. This included the following components, designed to be read and considered together:

1. **A cover letter,**
2. **A package overview and explanation**
3. **12 Position Papers** (developed from the Issues Papers)
4. **1 Issues Paper** (on scope – included as an issues paper in the pack to reflect the fact that the FH Standard draft had just been released and was under consideration and the scope of the TCP Code will likely mirror the Financial Hardship Standard)
5. **An outline draft TCP Code.**

Feedback was requested in writing by 30 November.

The process and package outline were discussed briefly at RC Meeting 4, with written comments requested to ensure that the DC could adequately understand and respond to specific issues.

1 DECEMBER TO 14 DECEMBER – FINALISATION OF AGREED CA POSITION AND DRAFT REVISED PROPOSED CODE PROVISIONS

Written input was received from ACCAN, the TIO and industry members. The ACCC responded but was unable to provide feedback within the requested timeframe.

The DC worked through the comments received from ACCAN, TIO and industry.

Changes were made to papers to accommodate comments where reasonable and achievable in the timeframe. This included quite substantial changes to the sales and DFV papers in particular – see stakeholder comment log for full details.

Other comments were noted for further consideration in the new year.

Details of the comments received, and the DC's response and action to each are recorded in the stakeholder comment log that is included in the 'TCP Code Compendium'.

EARLY 2024 – ITERATIVE DRAFTING TO CONTINUE

As noted in the main body of the cover letter, some details depend on the completion of the FH Standard, including scope, issues associated with vulnerable customers, credit and debt management, and disconnection.

Other positions will clearly evolve as iterative drafting progresses. As explained in the process outline, iterative drafting by the DC will occur in consultation with all stakeholders, with consideration given to other moving parts such as the privacy review, the development of guidance on accessibility, and so forth.

Note that no paper has been provided on records and privacy (as this was not a key issue identified in the 'ACMA letter'). However, a paper was discussed with the RC and we have been discussing this issue with key stakeholders, including the OIAC, and would need to work through issues further with key stakeholders as Code drafting progresses.

In the interim, should the ACMA have any specific issues of concern, we would appreciate the opportunity to understand and respond to them before the Authority finalises its decision on the next steps.



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Stronger Industry Code Aims to Benefit and Better Protect Australia's Telecommunications Consumers

Sydney, 14 December 2023: The Australian telecommunications sector has developed an extensive suite of stronger and enforceable consumer protections as part of an upgraded industry Code, scheduled to take effect in 2024.

Members of the Communications Alliance drafting group have met more than 70 times in recent months to produce the draft reform package, which was submitted to the industry regulator today, in advance of an accelerated regulatory deadline.

The planned improvements to the *Telecommunications Consumer Protections* (TCP) Code will benefit consumer and small business telco consumers across the breadth of their customer experience, including through:

- requirements for improved customer service;
- stronger protections against poor selling practices;
- better safeguards for vulnerable customers and those at risk of domestic and family violence;
- greater flexibility around bill payment;
- improved credit assessment processes; and
- stronger reporting and risk management requirements on service providers.

The regulator - the Australian Communications and Media Authority (ACMA) - had brought forward, to 15 December, the timing for industry to come up with definitive agreed positions on how to further strengthen the TCP Code.

The Code in its various iterations has been in place since 2006, has been regularly revised by industry and through public consultation, and is registered and enforced by the ACMA. It has helped to significantly drive down the volume of customer complaints about the performance of service providers, particularly during recent years.

Communications Alliance today submitted to the ACMA a package of proposed reforms that draws on deep industry expertise and – most importantly – the inputs and suggestions received from a wide range of stakeholders, including government, regulators and the telco consumer representative group, ACCAN, that have been actively engaged in the revision process during the past year.

The package is publicly [available here](#).

If the go-ahead for the next phase is received from the ACMA, the reform package will be fully developed into a revised draft TCP Code, that will be subject to a further



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public consultation process before being submitted to the ACMA for consideration for registration.

Communications Alliance CEO, John Stanton, paid tribute to the stakeholders that have helped shape the reforms and to the extraordinary efforts of the industry drafting committee that has pulled together the suite of improvements.

The revised TCP Code is also being restructured to provide a stronger and clearer focus on measurements of success and accessibility, Mr Stanton said.

"If the latest version of the Code comes into effect, following registration by the ACMA, it will generate even better outcomes for Australian telco consumers, which is also ultimately to the benefit of industry."

Mr Stanton acknowledged that – as is usual at this stage of the code revision process - there remain several issues where industry and stakeholders have not yet achieved full alignment.

"Industry looks forward to continuing to work with the public and with stakeholders in a collaborative and transparent way to close any remaining gaps before the finalised code takes effect."

For more details about Communications Alliance, see <http://www.commsalliance.com.au>.

Media information contact:

Sefiani
Aprille Lim
0413 317 788

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TCP CODE REVIEW PACKAGE

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Introduction and mapping table

Agreed Position Papers

This section includes:

- a **mapping table** to show how the Agreed Position Papers that are provided as part of this TCP Code Compendium relate to each of the ACMA's six areas of concern.
- a comprehensive set of **Agreed Position Papers** on key issues. These outline the identified consumer issue, the different stakeholder views on it and present the agreed industry position on how the key concerns can be reasonably addressed in a way that balances the divergent views of all stakeholders, with draft new and revised proposed code provisions.

Package overview and explanation

The TCP Code draft package includes:

1. This document.
2. **Position Papers.** The papers previously provided as 'Issues Papers' have been updated to 'Position Papers' to include:
 - RC feedback
 - feedback from other sources (e.g. external experts; stakeholders with whom one-on-one meetings were held)
 - sample drafting.

Together, the issues papers address all the ACMA's identified areas of concern.

Note:

- (i) All papers are drafted on the understanding that the Code applies to residential and genuinely small businesses in relation to their Australian operations (refer to Issues Paper: Scope and application).
- (ii) All elements of the draft package are to be considered as a whole; issues may be covered across a number of papers – see 'mapping table' below.
- (iii) An issues paper was presented on privacy and record keeping. It has been updated to reflect RC feedback but is not included in the pack, as it is not finalised and was not an ACMA priority issues.

Mapping table

Six areas of concern were highlighted in the ACMA letter:

1. selling practices,
2. credit assessments,
3. payment methods,
4. disconnection processes,
5. financial hardship assistance, and
6. treatment of customers in vulnerable situations.

The table below shows how the set of position papers that are provided as part of this package relate to each of these 6 concerns.

Topic	Position paper
Overarching	Code structure, measurements of success Issues paper: Scope and application
1. Selling practices	Selling policies Essential information Mobile network coverage Also relevant: <ul style="list-style-type: none"> ○ <i>Vulnerable customers (overarching)</i> ○ <i>Credit assessments</i> ○ <i>Payment methods</i>

2. Credit assessments	Credit assessments <i>Also relevant:</i> <ul style="list-style-type: none">○ <i>Vulnerable customers (overarching)</i>○ <i>Selling policies</i>
3. Payment methods	Payment methods
4. Disconnection processes	Credit and debt management
5. Financial hardship assistance	Mostly out of scope (pending FH Standard)
6. Treatment of customers in vulnerable circumstances.	Vulnerable customers (overarching) Domestic and family violence Languages Accessibility Customer service <i>Also relevant:</i> <ul style="list-style-type: none">○ <i>Selling policies</i>○ <i>Essential information</i>○ <i>Credit assessments</i>○ <i>Credit and debt management</i>

3. Draft outline new TCP Code.

An outline of the new proposed TCP Code is provided to show the new structure.

As discussed at the RC, the Code has been restructured to make it more user-friendly. After broad information about the scope and intent of the Code in the introduction, Chapters 1 and 2 cover terminology, definitions and acronyms, and general administrative information. For easily readability, key terms will be linked back to the full definition each time they are used in a clause.

Chapters 3 and 4 cover overarching issues relevant to the whole organisation, covering expectations and requirements that relate to inclusive, fair and reasonable consumer outcomes through a CSP's organisational culture, policies, training and governance; and through the general consumer support provided (with a particular focus on consumers in vulnerable circumstances).

Chapters 5-9 are then structured around 'customer journey', starting from pre-sale activities (advertising, etc.), through the sales process, customer support, billing and payments, and disconnection.

The final chapter covers performance measurements that will be designed to demonstrate compliance with the Code requirements.

Intended outcomes for each chapter will be clearly stated, with plain-English used throughout and guidance notes to provide additional assistance to CSPs. (More detail - Position Paper: Code structure, measurements of success).

For most chapters in the attached draft Code outline, only 'outcomes' (for consumers) and 'expectations' (the high-level expectations about what CSPs need to do to ensure the consumer outcomes are realised) are included. These draft

outcomes and expectations are drawn from the position papers and may not be exhaustive. They are included to illustrate the new structure.

Draft wording is included for the entire chapter at chapter 5, Responsible selling: Advertising and pre-sale information, to help reviewers better understand drafting in context.

To further understand context and fit, the RC should refer to the table overleaf, which explains:

- how relevant content from the current Code maps across to the proposed new Code, and
- where each of the issues explored in each of the position papers will likely fit in this new structure.

NEW TCP CODE PROPOSED STRUCTURE

NEW TCP Code structure (draft)	Where is similar info in current Code? (mapping across chapters and clauses)	Comment	Relevant Position Papers (Papers explain the more substantial proposed content revisions – and where they likely fit in the new code structure)
INTRODUCTION <ul style="list-style-type: none"> – Overview: Mandatory, enforceable consumer protection – Background: The telecommunication consumer protection framework – Code structure and summary of chapters – Code revision history – Acknowledgements 	Introduction Statement Chapter 1 (+new)	The Introductory Statement will be rewritten and restructured. Concepts will be carried across from the Introductory Statement and Chapter 1 of the current Code, with new information added to ensure the purpose and context are clear for the intended audience (CSPs) and to address common misunderstandings about the Code.	<ul style="list-style-type: none"> – Code structure, measurements of success – Scope and application
Table of Contents			
1. TERMINOLOGY, DEFINITIONS AND ACRONYMS <ul style="list-style-type: none"> 1.1. Interpretation 1.2. Definitions 1.3. Acronyms 	Chapter 2 (+new)	This Chapter will cover terminology, definitions, and acronyms.	<ul style="list-style-type: none"> – Scope and application – Domestic and Family Violence – Essential Information – Vulnerable customers
2. GENERAL <ul style="list-style-type: none"> 2.1. Introduction and scope 2.2. Relevant documents 2.3. Commencement date 2.4. Code review and revision 	Cls 1.1, 1.2, 1.3, 1.4, 1.5, 1.6, 1.7 (+new)	This chapter will cover the administrative elements of the Code. It is intended to support CSPs in understanding the requirements to comply with the Code and other connected obligations and sets out the process for the administration and management of the Code.	<ul style="list-style-type: none"> – Code structure, measurements of success – Scope and application

NEW TCP Code structure (draft)	Where is similar info in current Code? (mapping across chapters and clauses)	Comment	Relevant Position Papers (Papers explain the more substantial proposed content revisions – and where they likely fit in the new code structure)
3. ORGANISATIONAL CULTURE, AND GOVERNANCE 3.1. Organisational culture 3.2. Policies and supporting materials 3.3. Training 3.4. Governance 3.5. Personal information	Cls 3.3, 3.7, 4.7.2, 4.5.1(c), 4.5.2(a) (+new)	This is chapter will cover expectations and requirements for every CSP to enable inclusive, fair and reasonable consumer outcomes through its organisational culture, effective policies and training, and related governance arrangements. It covers issues from a whole-of-organisation perspective.	<ul style="list-style-type: none"> – Accessibility – Domestic and Family Violence – Vulnerable customers
4. SUPPORTING THE CONSUMER 4.1. Information for consumers 4.2. Consideration of vulnerable consumers' needs and circumstances. 4.3. Authorised representatives 4.4. Advocate	Cls 3.1, 3.2, 3.4, 3.5, 3.6 (+new)	This chapter will cover obligations for CSP to enable inclusive, fair and reasonable consumer outcomes through its support of consumers and their authorised representatives. It will cover requirements that apply to and will benefit all consumers, giving particular focus to vulnerable consumers, and addressing issues raised in the ACMA SOE through new obligations, as well as bringing clarity to or strengthening existing obligations.	<ul style="list-style-type: none"> – Accessibility – Domestic and Family Violence – Languages and Translating Services – Vulnerable customers
5. RESPONSIBLE SELLING: ADVERTISING AND PRE-SALE INFORMATION 5.1. CIS 5.2. Advertising 5.3. Product information	Cls 4.1, 4.2, 4.3 (+new)	This chapter will cover what CSPs must do when publishing information about or advertising telecommunications products.	<ul style="list-style-type: none"> – Responsible Selling – Essential Information – Languages and Translating Services – Mobile Network Coverage – Payment Methods

NEW TCP Code structure (draft)	Where is similar info in current Code? (mapping across chapters and clauses)	Comment	Relevant Position Papers (Papers explain the more substantial proposed content revisions – and where they likely fit in the new code structure)
6. RESPONSIBLE SELLING: SALES, CONTRACTS AND CREDIT ASSESSMENTS 6.1. Selling policies 6.2. Sales conduct 6.3. Meeting consumer needs 6.4. Credit assessments 6.5. Consumer contracts	Cls 4.2.8, 4.5, 4.6, 6.1, 6.2, 6.3 (+new)	This Chapter will cover the requirements during the sale for a CSP act during the sales process, as the general consumer becomes a customer.	<ul style="list-style-type: none"> – Responsible Selling – Essential Information – Accessibility – Customer Service – Domestic and Family Violence
7. CUSTOMER SERVICE AND SUPPORT 7.1. Effective customer service 7.2. Accessing customer service 7.3. Remedies 7.4. Changing suppliers	Cls 3.8, 4.4, 4.7 Chapter 9 (+new)	This Chapter will cover the obligations for CSPs when supporting a customer in their interactions with their CSP. The general expectations set out in Chapter 4 Supporting the Consumer also apply, however this Chapter is focused on the management of current or former customers of a CSP.	<ul style="list-style-type: none"> – Customer Service – Domestic and Family Violence
8. BILLING AND PAYMENTS 8.1. Charging policies and rules, charging for Bills 8.2. Verifying Charges 8.3. Spend Management Tools 8.4. Usage Notifications 8.5. Information about charging, Bills and payment processes 8.6. The Bill 8.7. Timing of Bill 8.8. Payment Options 8.9. Direct Debit	Cls 5.1, 5.2, 5.3, 5.4, 5.5, 5.6, 5.7, 5.8, 6.4, 6.5 (+new)	This Chapter will cover CSPs obligations for charges, billing and payments. All clauses relating to the management of billing and charges will be consolidated into this Chapter.	<ul style="list-style-type: none"> – Payment Methods

NEW TCP Code structure (draft)	Where is similar info in current Code? (mapping across chapters and clauses)	Comment	Relevant Position Papers (Papers explain the more substantial proposed content revisions – and where they likely fit in the new code structure)
9. CREDIT MANAGEMENT, DEBT MANAGEMENT AND DISCONNECTION 9.1. Reminder notices 9.2. Notice to Restrict, Suspend or Disconnect a service for Credit and/or debt Management Reasons 9.3. Disconnecting a customer 9.4. Fair Credit Management process 9.5. Credit Management for disputed amounts 9.6. Debt Collection	Cls 6.6, 6.7, 6.8, 6.9, 6.10 (+new)	This Chapter will cover the expectations for CSPs administration of credit and debt management, default matters, and the process for CSPs to disconnect a service. This will include drafting to support improved communications and notifications to consumers and for disconnection to be an option of last resort.	<ul style="list-style-type: none"> – Credit/Debt Management (including restriction, suspension, and disconnection) – Domestic and Family Violence
10. PERFORMANCE MEASUREMENT FRAMEWORK AND COMPLIANCE 10.1. Measures of Success 10.2. Process metrics 10.3. Effectiveness metrics 10.4. Attestation 10.5. Public reporting 10.6. Risk management reporting	Chapter 10 cl 4.7.3 Appendix 1 (+new)	This Chapter will cover performance measurements to demonstrate CSP compliance with the minimum compliance obligations in this Code. It will be substantively updated with much clearer requirements, increasing transparency and understanding of compliance.	<ul style="list-style-type: none"> – Code structure, measurements of success

Agreed Position Paper: Scope and Application of TCP Code

A. Issue

Identified problem

As currently drafted, the TCP Code provides protections for 'consumers'.

The definition of 'consumers' is:

- a) an individual who acquires or may acquire a Telecommunications Product for the primary purpose of personal or domestic use and not for resale; or
- b) a business or non-profit organisation which acquires or may acquire one or more Telecommunications Products which are not for resale and, at the time it enters into the Customer Contract, it:
 - i) does not have a genuine and reasonable opportunity to negotiate the terms of the Customer Contract; and
 - ii) has or will have an annual spend with the Supplier which is, or is estimated on reasonable grounds by the Supplier to be, no greater than \$40,000.

The ACCC and other members of the RC have suggested that the definition of consumer in the TCP Code (and FH Standard) should be updated to align with the updated definition of consumer in the ACL – that is, it should reference a \$100,000 spend.

There is also a desire to align the definition with the agreed definition for the Financial Hardship (FH) Standard. This is, as yet, not finalised, but the same principles apply to both instruments.

Industry has raised concern that the current definition already unintentionally captures many medium/large enterprises and businesses, including the local operations of multinational corporations. Larger enterprises or businesses do not require the consumer-focussed protections of the Code; they have bargaining power and do not need the same consumer protections as residential consumers or small businesses (or the protections from financial hardship). Increasing the spend threshold within an already problematic definition would substantially increase the number of large enterprises that would be unintentionally and unnecessarily captured by the Code. Including large businesses increases CSP's compliance costs without any real consumer benefit. It also means that CSP resources are stretched to cover business customers when they could be better allocated to more vulnerable consumers.

The DC initially proposed, therefore, that the current spend threshold be retained, with the definition to be amended to exclude larger businesses more effectively through the inclusion of a number of 'carve-outs'. The proposed carve-outs were based on definitions of small business in general use, including that used by the TIO, ACMA (in the Customer ID Determination, registered in 2022), Australian Bureau of Statistics, and others).

Considerations/principles for code obligation drafting

How to define the scope and application of the Code (and FH Standard) so that:

- it is in line with community expectations in relation to the intention and purpose of the Code – i.e. it is to protect residential consumers and small business owners (sole traders, partnerships) rather than large enterprises of multinational corporations.
- where possible definitions are consistent with other telco legislation/regulations and their approach.

NOTE: *There are numerous instruments with which the Code could align other than the ACL, including several ACMA regulatory instruments. For example, the Customer Authentication Determination 2022, which retains the \$40,000 (despite being determined after the ACL threshold for consumer spend was increased to \$100,000) plus has other carve outs. See also ['Background'](#).*

- where possible, the need for additional information that might be needed from the customer at point of sale or over time, is minimised (i.e. if there are additional criteria to apply can this be determined independently by the CSP).

NOTE: The intent is agreed: TCP Code protections should be provided for residential and genuinely small business customers.

It is clear from RC discussions that all stakeholders agree that the TCP Code (and FH Standard) protections are intended for residential and genuinely small business customers.

No one is suggesting that the TCP Code provisions should apply to large businesses.

(The Department confirmed that this is the intent of the FH Standard too, in discussions about the Direction.)

However, the following issues about the proposed definitional changes were raised by RC members:

- concern that carve-outs will unintentionally prevent a genuinely small business from enjoying TCP Code protections. ACCAN, in particular, contends that it is, therefore, better to keep the scope very broad, arguing that the cost of large businesses being unintentionally and needlessly captured in scope is likely to be minimal and is, on balance, justified and reasonable.
- concern that the new proposed definition was too long and complicated.

The ACMA has indicated that it recognises that the ACL has economy-wide application, and this is a telco-specific instrument, so carve-outs that appropriately exclude large businesses and enterprise customers may be appropriate.

The challenge remains to agree on a definition that:

- provides protections for the intended customers (residential and genuinely small business customers), while excluding large enterprises and multinational corporations.
- where possible, uses definitions that are consistent with other telco legislation/ regulations and their approach – including the Financial Hardship Standard (noting that the draft was released during this process).
- is not unduly complicated.

B. Background

There are several approaches across industries and jurisdictions to define what a 'small business' is.

For example, in its Guide *"Unfair Contract terms: new protection for small business"* the ACCC states that a small business is: "... one that employs less than 20 employees, including casual employees that work on a systematic basis."¹

In the Energy Sector, a customer's usage determines if they are classified as a "large" or a "small" customer. Small customers self-identify as either a 'business' or a 'residential' customer. Retailers are only obligated to provide Financial Hardship assistance to residential customers, though some retailers provide assistance to small business customers.

In the Financial Services sector, their definition is via products i.e. a Business Customer would be defined by having a Business Loan or Business Overdraft product type.

The TIO considers *"generally, a small business or not-for-profit consumer has up to \$3,000,000 annual turnover and no more than 20 full-time employees."*²

The *Telecommunications Service Provider (Customer Identity Authentication) Determination 2022* (Customer ID Determination) addresses similar issues related to business customers by excluding application of the determination to certain business customers ('Account Managed Customers' and 'Integrated customers': see s. 3).³

The Customer Service Guarantee excludes customers who have more than 5 landline phone lines (noting this is legacy regulation).⁴

Further information on the problem

Further information is provided below to explain:

- why many large businesses are not excluded from scope currently, despite there not being a power imbalance between them and the CSP (that is, they have the power and resources to negotiate terms and conditions, OR,

if they did not have the need or opportunity to negotiate concerns, to address any dispute with the CSP),

- the cost impost to CSPs in these businesses not being appropriately excluded, and
- the practical implications of attempting to ensure TCP Code compliance when many TCP Code requirements do not or cannot apply and do not make sense for these organisations, and cannot therefore be operationalised.

Large business customers currently excluded from scope

Many business and enterprise customers are currently excluded from the Code because they tend to employ in-house lawyers and have a genuine opportunity to negotiate the terms of their contract.

These organisations:

- tend to be purchasing non-mass market offerings that are complex, with many options (services, vendor equipment, vendor licences, etc), often bespoke.
- are managed by separate business units, with separate platforms, different databases and different sales teams than those servicing residential and small business customers.
- usually interact with their CSP (e.g. for service or billing queries) through specialised business portals.
- are provided with detailed technical specifications rather than a CIS.

These customers are, appropriately, excluded from current Code provisions and there is no suggestion from any stakeholder that this should change.

Large businesses currently in scope

Many large business customers are currently in scope for TCP Code protections, despite being managed in a manner similar to that described above (on separate platforms, using sophisticated or complex services and engaging with their CSP via a business portal and having an account manager).

This occurs when they do not have many services with the CSP, spend less than \$40,000 with the CSP and are on standard contracts which do not provide them with a genuine opportunity to negotiate.

This can happen for a number of reasons. For example, multi-national company X, may wish to use a back-up product from CSP A, to complement the suite of telco products it buys from CSP B. As a basic backup, the product bought from CSP A falls under the \$40,000 threshold. Under current rules, CSP A must provide TCP Code protections for this product, whereas CSP B, with whom company x spends \$90,000, does not.

Or, company X may wish to use a particular product offered by CSP C that is available to residential and small businesses consumers. Company X already has a suite of enterprise products from CSP C, which are not subject to TCP Code

protections. However, because CSP C is not offering company X the ability to negotiate on this particular product, and the spend on this product is small, under the current Code, the TCP Code protections most likely apply. As company X is already account managed, the new product is added to that system. Unlike the systems and processes associated with the product when sold (as intended) for small businesses and residential consumers, the account managed systems and processes are not set up to comply with the TCP Code. This means a whole new compliance structure must be set up for these customers.

Both these scenarios create a situation where CSPs must spend substantial sums of money to provide TCP Code protections for a company that does not need them and where they are not meaningful – as many Code provisions do not apply/ do not make sense in this context and cannot be operationalised (more detail below).

Clearly, the number of large businesses in scope would increase substantially if the spend threshold were raised to \$100,000, as a number of submitters propose.

On this point, the Drafting Committee (DC) notes that the ACL spend threshold was increased in 2021 from \$40,000 to \$100,000 following the ACL review¹. The ACL review's final report found that the \$40,000 spend threshold had not increased since 1986 and many business purchases that once were covered were no longer covered as a result of inflation. The final report noted specific examples of items that were once covered under the ACL but were not any more, such as client record systems, certain farm equipment, air-conditioning units for industrial buildings, water tanks and some vehicle purchases².

It was intended that by increasing the threshold it would ensure small businesses had consumer protection remedies available if such large value goods were faulty to minimise lost productivity³. It's clear the increase in the ACL business spend threshold was specifically targeted at large value business purchases acquired occasionally by otherwise small businesses.

The DC considers there are good reasons not to adopt this same approach in the TCP Code given the different nature of telecommunications goods and services and the TCP Code.

It is important to remember that the ACL is an economy-wide law and the monetary threshold has been set taking into account broader economy-wide considerations. At the time of the ACL Review, ABS CPI data shows that general prices had increased around 166 per cent since the \$40,000 threshold had been implemented in 1986⁴ and it is apparent why high value business purchases like

¹ Treasury Laws Amendment (Acquisition as Consumer—Financial Thresholds) Regulations 2020.

² Australian Consumer Law Review – Final Report, March 2017, p. 73.

³ Australian Consumer Law Review – Final Report, March 2017, p. 73.

⁴ 6401.0 Consumer Price Index, Australia, TABLE 8. CPI: Analytical Series, Weighted Average of Eight Capital Cities.

farm equipment would therefore no longer come under the \$40,000 threshold due to this inflation.

However, telecommunications goods and services are typically not high value business goods or equipment purchased occasionally. \$40,000 is a significant annual spend on telecommunications equipment and services.

Nor has there been a significant increase in prices of telecommunications goods and services as a result of inflation. Since 1986 telecommunications equipment and services have only increased 8 per cent. Indeed, since the \$40,000 threshold was introduced into the TCP Code 3 years ago (2020), prices for telecommunications equipment and services have decreased by 1 per cent⁵.

Therefore, it is extremely unlikely that small businesses once covered by the TCP Code may no longer be covered due to inflation in telecommunications prices. As such, there is no identified need to increase the threshold and increasing the monetary threshold to \$100,000 simply increases complexity for CSPs as it would expand TCP Code obligations to businesses that previously have not been subject to the TCP Code.

It is also important to note that keeping the TCP Code threshold at \$40,000 would not affect a CSP's obligations under the ACL, for example, in relation to misleading and deceptive conduct, and the consumer guarantees and warranties. Businesses would still have those essential ACL protections related to the acquisition of telecommunications goods and services.

Costs impost to CSPs in large businesses not being appropriately excluded

Contrary to some stakeholders' belief that because the protections will never be required, there is no cost to business in their inclusion in scope, there are substantial costs incurred to their inclusion – estimated to be in the \$millions – with no benefit. The cost impost of their inclusion in the Code's scope may result in some CSPs exiting this segment of the market.

The systems that CSPs use to support enterprise customers are quite separate and not set up to support TCP compliance.

For example, CSPs would not be able to provide 'essential information⁶' or a CIS to an enterprise customer that is contracting to purchase bespoke, complex products and services. Many other TCP Code requirements in relation to disconnection, vulnerable customers, etc, would also not be relevant in the situation and would not be able to be operationalised.

Additionally, all staff working on enterprise accounts would require training (and refreshers) on all aspects of the TCP Code, and new systems and processes

⁵ 6401.0 Consumer Price Index, Australia, TABLE 13. CPI: Group, Expenditure Class and Selected Analytical Series Index Numbers, Seasonally adjusted, Weighted Average of Eight Capital Cities.

⁶ Refer to the separate Position Paper 'Essential Information' for information on this concept.

would need to be implemented to monitor compliance with it (despite some sections not being applicable to business customers). This represents a significant cost, with no consumer benefit.

C. Draft revised proposed definition

Communications Alliance propose the following definition that it believes reasonably addresses the issues and concerns raised by all stakeholders.

Proposal – updated definition of consumer

We have proposed the same definition be used for the Financial Hardship Standard.

[Chapter 1 - Terminology, definitions, and acronyms: Definition of consumer \[updated\]](#)

Consumer means:

- (a) an individual who acquires or may acquire a telecommunications product for the primary purpose of personal or domestic use and not for resale; or
- (b) a business or non-profit organisation which acquires or may acquire one or more telecommunications products which are not for resale and which, at the time it enters into the consumer contract:
 - (i) does not have a genuine and reasonable opportunity to negotiate the terms of the consumer contract; and
 - (ii) has or will have an annual spend with the provider which is, or is estimated on reasonable grounds by the provider to be, no greater than \$40,000,

but excluding any business or non-profit organisation which:

- (1) is an account managed customer or integrated customer; or
- (2) is a business organisation assessed on reasonable grounds by the provider to not be a small business.

where Account Managed Customer and Integrated Customer have the same meaning as in the *Telecommunications Service Provider (Customer Identity Authentication) Determination 2022*.

Guidance – reasonably assessed not to be a small business

TCP Code protections are intended to provide additional protections for residential and genuinely small business customers – sole traders, ‘mum and dad’ businesses, etc – while excluding large enterprises and multinational corporations.

There may be other reasonable mechanisms that a CSP can use to determine if a business is in scope (or not) in addition to those listed at (i) to (iii). This might include, for example:

- organisations that have over 50 services on their account,
- organisations using enterprise grade products.

Where a CSP determines that a business customer is not a small business, it must document the basis of its decision and be able to demonstrate that the business has been ‘reasonably assessed’ not to be a small business. The ACMA may at any time ask for documentary evidence to demonstrate that a ‘reasonable assessment’ has occurred.

Would this proposed definition risk excluding genuinely small businesses from scope?

The DC believes this new proposed definition would not risk excluding genuinely small businesses from the Code’s protections.

Mass market offerings for residential and small business consumers are set up and sold through systems that are set up for TCP compliance. For example, customer service representatives are prompted to mention the relevant “must mention” for any transaction/interaction/query to ensure code obligations are met. Likewise, the CIS is integrated so that they can be sent to these customers during the sale process.

None of the proposed exclusions would change this. The first two exclusions are not contended; integrated service desk benefits are only available to large businesses; and no genuinely small businesses would have more than 50 services.

Note: Issues may be covered across a number of papers. All elements of the draft package are to be considered as a whole.

Agreed Position paper: Code structure, measurements of success and reporting

A. Issue

Identified consumer and regulator problem

There are minimal reporting obligations in the current Code regarding customer service metrics, making it difficult for regulators and consumers to readily access information about the industry's compliance and performance with Code obligations; the existing framework for complaints in context reporting is helpful but solely focuses on TIO complaints.

Additionally, current Code provisions lack clarity, making it difficult both for industry to ensure compliance and for regulators to assess it.

Finally, submissions suggested insufficient knowledge or understanding of the independence and value of the independent attestation process to drive compliance by industry.

CA plans to review the CIC reporting when capacity allows. If required, changes would be accommodated through the Code revision.

Considerations for code obligation drafting

- How to make the Code drafting clearer, assisting all sized CSPs with compliance.
- How to include measurements of success in the Code that:
 - expand reporting to include service metrics other than complaints;
 - appropriately accommodate different CSP sizes and capabilities (e.g. in public reporting obligations);
 - appropriately accommodate differences in product offerings, internal reporting, etc., to ensure reporting is as meaningful as possible (apples for apples comparison).
 - are able to be efficiently collected across all CSPs, with data consistent for the life of the TCP Code, thereby:
 - allowing year-by-year benchmarking;
 - efficient collection processes by CSPs (process and systems can be set up once and not altered each year).

Desired outcome from TCP Code revision

- Clearer drafting to enable CSPs of all sizes to understand Code requirements.
- Meaningful, contextual and comparable performance metrics that:
 - directly relate to the TCP Code obligations;
 - allow consumers to reasonably compare CSPs' customer service performance in key areas,

- o allow regulators and industry to understand which areas of code compliance are working well and where attention is required.

B. Background

Existing obligations

The Code has requirements to monitor customer service performance but only has reporting obligations around complaints handling in cl 4.7.3.

Source	Detail
4.7.1 – Effective Service	<p>Effective service: A Supplier must ensure enquiries by Customers are dealt with by the Supplier in a timely and effective manner. A Supplier must take the following actions to enable this outcome:</p> <ul style="list-style-type: none"> a) Access: inform Customers how to contact the Supplier about Customer Service enquiries and the hours of operation of these contact methods; b) Average wait times: monitor average wait times experienced by Customers to communicate with a Supplier about a Customer Service enquiry and seek to keep the average wait times to a reasonable minimum in the circumstances; c) First contact resolution: monitor the level of first contact resolution of Customer Service enquiries, take reasonable steps to understand the root causes for why enquiries cannot be resolved at first contact, and address those root causes; and d) Record keeping: keep records of interactions between the Supplier and Customers accessible to staff tasked with responding to such Customer Service enquiries, to aid in resolving Customer Service enquiries. <ul style="list-style-type: none"> (i) Provision of records: Following a Customer's request, provide to the Customer or former Customer records kept under clause 4.7.1 d) for as long as the Supplier retains those records. (ii) Cost of providing records: If a Charge for providing the records kept under clause 4.7.1 d) is charged by the Supplier, limit that Charge to no more than the reasonable cost of finding, accessing, arranging, and providing the information." <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p><u>Guidance</u> Clause 4.7.1 d) (ii) does not impact records requested in a Complaints process, which must be handled and provided according to the Complaints Standard, or records requests through the TIO or any other regulatory or law enforcement body governed under other laws and regulations. Suppliers should consider waiving Charges under clause 4.7.1 d) (ii) for Customers experiencing Financial Hardship.</p> </div>
4.7.2- Assessing Performance	A Supplier must:

	<ul style="list-style-type: none"> a) Customer feedback: seek and obtain feedback from Customers about how the Supplier deals with Customer enquiries; and b) Improvements: use this Customer feedback to identify any systemic issues and take reasonable steps to implement improvements to its Customer Service processes.
4.7.3 - Reporting	<p>Reporting: Suppliers identified by the TIO's data as being the 10 service providers with the largest number of phone and internet complaints during the prior financial year (July – June) must participate in the following calendar year's Communications Alliance Complaints in Context Report for four quarters.</p> <ul style="list-style-type: none"> a) Voluntary participation: Any Supplier may voluntarily participate in the Complaints in Context report, in which case they must participate for a minimum of four consecutive quarters. b) Services in operation: Participating Suppliers must provide services in operation data to Communications Alliance no later than 30 days after the end of each quarter. <ul style="list-style-type: none"> (i) Services in operation must be measured as the total number of active telecommunications services supplied by the Supplier on the last day of the record-keeping period. <p>For the purpose of this clause, Services in operation and record-keeping period are as defined in the Telecommunications (Consumer Complaints) Record-Keeping Rules 2018, while ever it is in force, which can be accessed from the Federal Register of Legislation at www.legislation.gov.au.</p>
10.4	<p>Suppliers must provide to Communications Compliance prescribed statements regarding Code compliance in the manner set out in this clause 10.4 and at the times set out in clause 10.8. A Supplier must take the following actions to enable this outcome.</p> <p>10.4.1 A Supplier must:</p> <ul style="list-style-type: none"> a) Compliance Attestation: provide to Communications Compliance a Compliance Attestation which has been endorsed by the chief executive officer or a senior manager of the Supplier, by the date each year specified in clause 10.8 and in the form required by Communications Compliance; b) Contents of Compliance Attestation: if it is required to be provided by this clause 10.4, ensure that the Compliance Attestation includes: <ul style="list-style-type: none"> (i) confirmation that a review has been undertaken by the Supplier regarding its compliance with the Code; (ii) if a Small Supplier, either: <ul style="list-style-type: none"> A. confirmation that the Supplier's processes and systems referred to in clause 10.3.1 a) are implemented to ensure full compliance with this Code: or B. confirmation that the Supplier's processes and systems referred to in clause 10.3.1 a) are

	<p>implemented in a manner which ensure compliance with some Code requirements but do not yet ensure full compliance (Partial Confirmation);</p> <p>(iii) if not a Small Supplier....[same as above for A and B except that it must have a Compliance plan) AND</p> <p>(iv) ...an assertion that the Supplier's Compliance Plan has been prepared in a manner consistent with the principles and guidance provided in the Compliance Standard; and</p> <p>(v) other than in relation to a First Compliance Attestation, a report on the Supplier's compliance with its Compliance Plan during the preceding year; and</p> <p>c) Statement of Independent Assessment: If a Large Supplier, provide to Communications Compliance a Statement of Independent Assessment at the same time as providing the First Compliance Attestation pursuant to clause 10.4.1 a), which Statement of Independent Assessment must state that an External Qualified Assessor has determined that:</p> <p>(i) the Supplier's documented Compliance Plan has been prepared in a manner consistent with the principles and guidance provided in the Compliance Standard; and</p> <p>(ii) the implementation of the Compliance Plan by the Supplier will provide appropriate assurance on Code compliance.</p> <p>10.4.2 Material Changes: If a Supplier makes or is subject to any Material Change, the Supplier must, within one month of the time the Material Change is implemented, provide to Communications Compliance a statement which:</p> <p>a) describes the Material Change and its effect on the Supplier's compliance with this Code; and</p> <p>b) details the actions to be taken to ensure continued compliance with this Code and the expected timeframe for completion of those actions.</p>
10.5	<p>Compliance Achievement Plans</p> <p>If a Supplier does not submit to Communications Compliance a Compliance Attestation or a Statement of Independent Assessment (if required) required by this Chapter 10, or submits a Compliance Attestation with a Partial Confirmation, the Supplier must submit to Communications Compliance a Compliance Achievement Plan detailing how and when* actions will be taken to comply with the relevant Code requirement(s).</p> <p>[details set out in subclauses]</p> <p>*(NOTE: Timeframes are set out in table 1 of clause 10.9.1)</p>
10.6	<p>Compliance Monitoring Requests</p> <p>[sets out details of what must be provided to CommCom].</p>
10.7	<p>Supplier obligations regarding Communications Compliance</p> <p>...</p> <p>10.7.1 A Supplier must take the following actions to enable this outcome:</p>

	<p>a) Comply with directions: comply with all reasonable directions given by Communications Compliance to the Supplier which are consistent with obligations in this Code in accordance with Table 1 in clause 10.9;</p> <p>b) Metrics: provide to Communications Compliance annually, or more frequently if required by Communications Compliance, a report in a format required by Communications Compliance reporting on the Metrics which relate to that Supplier's compliance to this Code; and</p> <p>c) Comply with requests: comply with all reasonable requests made by Communications Compliance to the Supplier which are consistent with obligations in this Code in accordance with Table 1 in clause 10.9.</p>
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Submissions

ACMA – Clarity in drafting consumer protection rules is needed to assist the industry in understanding its obligations and taking appropriate measures. Obligations in the consumer protection rules need to be assessable so that appropriate compliance action can be undertaken. There must be sufficient penalties to provide incentives for the industry to comply. Provisions should be included to require appropriate data to be captured to demonstrate compliance. These must be monitored and reviewed at an executive or board level. Telcos should publish key performance metrics.

Consumer Action Law Centre – AMCA must be able to investigate and act in a timely manner when the Code is breached. CommCom relies on the industry's reporting to be accurate – there should be more independent auditing required.¹

Independent submission (ex-industry individual) – the risk of the attestation process becoming a high-cost regulatory box-ticking exercise rather than an effective code compliance attestation. It is already a massive undertaking and very time-consuming. The impost on CSPs (and especially smaller CSPs) is already disproportionate to the benefits to industry or consumers.

ACCC – repeated non-compliance relating to the same conduct or issue should be addressed in the enforcement framework.

TIO – there should be clear consumer remedies where code breaches are evident.

¹ Consumer Action Law Centre 2018, *Telecommunications Consumer Protections Code Submission*, p. 15 - p.16, referenced in ACCAN's 2023, *ACCAN Response to Telecommunication Consumer Protections Code Review 2024*.

Industry submissions

There is a mix of mandatory (e.g. CIC and Complaint RKR) and ad hoc (i.e. s521 notice audits from the ACMA) reporting requirements on the industry which change each year, are very time-consuming, costly, and are of dubious value.

Current reporting on industry performance is commonly not reported in context, is fragmented, only captures certain sections of the industry and doesn't provide accurate or meaningful data for consumers, the industry or regulators at either a point in time or over time.

Additionally, some stakeholders' understanding of CommCom's role, independence, and the value attestation process itself needs to be substantially improved.

CommCom and its role

CommCom – CommCom's role and independence could be better understood. As an independent body, CommCom does its own assessment of CSP compliance which uses information received from the attestations (that use different questionnaires each year to test compliance) to then conduct audits of CSP customer-facing collateral (e.g. website content; training documentation (requested), etc). The process includes CommCom providing feedback to and assisting CSPs to ensure they are compliant with the areas identified in the questionnaire. It provides the opportunity for CSPs to address areas in which they are not fully meeting their requirements under the Code (within set timeframes). Note: the concept of an attestation of partial compliance arose from discussions with the ACMA and was designed to encourage providers to be forthcoming and more transparent about their level of compliance without fear of sanctions – thereby resulting in continual improvement.

Where there is repeated non-compliance, CommCom can refer CSPs to the ACMA for enforcement action. It is important that enforcement action by the ACMA relating to non-compliance is conducted in a timely manner so as to remain relevant to that year's attestation. Note that this has rarely been necessary because most instances of partial or non-compliance that are identified during the attestation process are rectified by way of constructive engagement between CommCom and the provider to address identified issues. There have, however, been instances where CSPs have failed to lodge attestations that have been referred to the ACMA for enforcement. This issue, and efficiency and visibility of the TCP Code and CommCom generally, would be increased by the proposed CSP registration scheme.

Finally, CommCom also consults with the ACMA, ACCAN and industry when considering key issues to be assessed in the annual compliance audit (attestation).

C. Agreed Proposed Code Structure

Proposal – a user-friendly Code structure with clauses in plain English and clear intended outcomes.

Each chapter will set out:

- OUTCOMES - the required outcomes for consumers,
- EXPECTATIONS - the high-level expectations about what RSPs need to do to ensure that these consumer outcomes are realised,
- RULES - the minimum requirements / minimum compliance obligations on RSPs to meet the expectations, and
- MEASURES OF SUCCESS (MoS) - details about what needs to be recorded and reported on to measure that high-level outcomes are being met (effectiveness metrics) and that rules are complied with (process metrics).

Where relevant, guidance notes will be included for additional assistance about how rules should be implemented to ensure outcomes and expectations are met.

Proposal - Measures of Success (MoS) in the TCP Code

To demonstrate Code outcomes and expectations are being achieved, CSPs must be able to produce:

- process metrics - policies and/or supporting materials; and
- effectiveness metrics - reporting and/or data.
 - For example, the [current CiC report](#) is an effectiveness metric.

Proposal – MoS reporting

MoS will be reported in three different ways (details below):

- 1) Public reporting (PR)
- 2) Risk Management Processes (RMP)
- 3) Attestation (A)

D. Further detail

Public Reporting, customer service metrics relevant to the Code

A requirement would be included for public reporting of a set of customer service performance indicators relevant to the TCP Code. The PR metrics would seek to demonstrate performance by CSPs against Code outcomes and expectations in a simple, easy-to-read format, to provide transparent and comparable measurements for industry, regulators, and consumers. It expands requirements in the current Code under clause 4.7 to issues beyond complaints.

The intention is to have an agreed format report – tied to the TCP Code – that remains constant throughout the life of the TCP Code. It would be changed only if

there's a problem, or when the Code is reviewed. This makes data collection more efficient and allows comparison year-by-year.

Identifying meaningful and comparable data is no simple task and specific metrics to be included cannot be meaningfully identified until drafting has further progressed on each chapter.

Risk Management Process (RMP) reporting

Each CSP would be required to record and monitor compliance with key clauses of the Code through an RMP, to be requested by the ACMA where there is evidence that the desired consumer outcomes are not being met.

See [Schedule 4 – Internet Carriage Services Online Safety Code \(Class 1A and Class 1B Material\)](#), MCM 10 for a current example of this reporting method.

Attestation

An annual confirmation, signed by a CEO or very senior leader, to confirm that policies and processes are in place. This would form part of the annual check undertaken by CommCom. Some key agreed metrics would be included in the PR.

Note: Issues may be covered across a number of papers. All elements of the draft package are to be considered as a whole.

Agreed Position paper: Accessibility

A. Issue

Identified consumer problem

The Code:

- does not contain general requirements to make consumer information available in an array of accessible formats.
- does not require CSPs to consider accessibility issues when designing products or services.
- is out-of-date and inaccurate in its referencing of WCAG.

Considerations for code obligation drafting

How to appropriately provide telecommunication-specific direction on accessibility requirements without duplicating legislation or other instruments (noting that requirements that apply to all businesses in Australia are set out in the [Disability Discrimination Act 1992 \(DDA\)](#)).

Desired outcome from TCP Code revision

Better outcomes and experiences for consumers in relation to accessibility.

Clear and meaningful provisions and/or guidance to assist CSPs in understanding their obligation to provide equitable access for consumers.

B. Background

Existing Obligations

Source	Detail
TCP Code 3.2.3	A Supplier must communicate with a Consumer in a way that is appropriate to the Consumer's communications needs, including Consumers with a disability.
TCP Code 3.2.5	A Supplier must: in respect of web content developed or in existence prior to the commencement date of this Code and amendments to and enhancements of such web content implemented on or after the commencement date of this Code, have regard to its web content complying with the most recent version of the <i>Web Content Accessibility Guidelines</i> , developed by the World Wide Web Consortium (W3C); and in respect of web content other than the web content referred to in clause a), ensure that its web content

	complies with the most recent version of the <i>Web Content Accessibility Guidelines</i> Level A success criteria.
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Submissions

ACCAN – Need strengthened obligation to comply with World Wide Web Consortium (W3C) to make RSP websites accessible to consumers who are blind or vision impaired.¹ The Centre for Accessibility Australia notes that Australian mainstream organisations are now expected to comply with WCAG2.0 Level AA standard. No requirement to provide information in a variety of accessible formats (braille, large print, plain-English, Auslan; or minimum standard for accessible formats), or design products, services, and internal policies that work for people with disability.²

ACMA – Code needs updating to ensure online communication channels used for customer contact are accessible.

Other research

CA had independent advice that its WCAG clause needed adjustment and have facilitated an info session for members on this (2022).

C. Draft revised proposed code provisions

Proposal – increase prominence and understanding of accessibility requirements in the Code through new headings and linked guidance.

[Chapter 4: Supporting the Customer - effective communication \[updated 3.2.2, 3.4.2, 4.5.2\].](#)

1. CSPs must communicate with consumers in a manner appropriate to their needs and circumstances (including for consumers with a disability). (updated 3.2.2)
2. CSPs must ensure that frontline customer service staff are trained to communicate effectively in plain language (updated 3.2.2).
3. CSPs must ensure that frontline staff are:
 - a. appropriately trained and resourced to assist customers (including those with a disability) (updated 4.5.2);
 - b. trained to recognise and interact appropriately and effectively with disadvantaged and vulnerable consumers (updated 3.4.2);

¹ ACCAN 2018, *Telecommunications Consumer Protections Code Submission*, p.23, referenced in ACCAN 2023, *ACCAN Response to Telecommunications Consumer Protections (TCP) Code Review 2024*.

² ACCAN 2020, *ACCAN response to Consumer Safeguards Review Part C / Choice and Fairness*, p.25, referenced in ACCAN 2023, *ACCAN Response to Telecommunications Consumer Protections (TCP) Code Review 2024*.

- c. trained to assist consumers find out where to access information about telecommunications products that suit their specific disclosed needs. (updated 4.5.2 (d))

Guidance – effective communication

Plain language. Unless the CSP is targeting another language group (*cross reference to the clause relating to targeted advertising to a language other than English to be inserted – see Agreed Position Paper – Language and translation services*), this means that the CSP must use plain English in its communications. As a guide, this means clear, straightforward expression that an average 12–14-year-old Australian could understand.

Guidance – resources and training [Note: there will be hyperlinks included for each of the listed resources, for easy reference.]

The following guides and resources may be useful:

- Reading Writing Hotline - Reader friendly communication – A guide to using plain language
- Accessible Telecoms - a free service to find independent and up-to-date information on telecommunication products and services that are suitable for seniors and people with disabilities.
- Accesshub – a government website with information and resources for the deaf community.
- Global Accessibility Reporting Initiative (GARI) – designed to help consumers to find a device (e.g. phone, tablet, app, connected wearable) that has the accessibility features that work for them.
- ACCC Guide – selling to Consumers with disabilities – A guide to competition and consumer law: for businesses selling to and supplying consumers with disability.
- ACCC Guide- selling to vulnerable Consumers consumer-vulnerability.pdf (accc.gov.au)
- Disability Awareness: disabilityawareness.com.au
- Design for Dignity Guidelines <https://and.org.au/DFD/>

(see also: Vulnerable consumer paper; sales paper)

Proposal – update the TCP Code to appropriately reference the latest version of WCAG.

Note: A key part of the DDA, which is the primary instrument in this space, relates to web accessibility. Rules for web accessibility are set out in Web Content Accessibility Guidelines (WCAG).

The requirements for CSPs in relation to accessibility are no different from those for any other public-facing entity (i.e., they are not in any way telco-specific). In line with ACMA guidance on Code development, which states that Codes should not

repeat or paraphrase legislation³, this would generally suggest that specific clauses about accessibility in the TCP Code may not be appropriate, as reference should be to the DDA, and related guidance produced by the Australian Human Rights Commission on compliance.

However, as guidance is currently not as clear as it could be (though CA understands that it is shortly to be updated), the Drafting Committee (DC) believes that it is useful to have clear information about expected requirements under the DDA included in the Code to increase its visibility and understanding. The DC has had some preliminary discussions with experts in the field to try to understand the best way to appropriately achieve this aim and proposes to consult further to ensure that any wording is accurate and as useful as possible.

Chapter 4 - Supporting the Customer: Web accessibility [updated 3.2.5]

1. When developing new digital content (websites, applications and content), CSPs must conform to Level AA (or higher) of the current Web Content Accessibility Guideline (WCAG).

Guidance - WCAG

WCAG standards are developed by the World Wide Web Consortium (W3C), and cover digital accessibility, including web, mobile and applications.

CSPs are strongly encouraged to monitor the Web Accessibility Initiative (W3C) website for updates to the WCAG, to allow them to comply with **new** updates as soon as possible after they are released.

To meet the expectations of the Disability Discrimination Act (DDA), CSPs are strongly encouraged to make sure websites and applications are updated to be compliant with the latest version of WCAG within 12 months of any updates.

CSPs should also have regard to guidance on meeting the DDA published on the Human Rights Commission's website. [drafting TBC pending these updates, which CA understands are expected in 2024.]

We would welcome the ACMA's reassurance that any enforcement action would allow reasonable implementation periods in line with the approach that we understand is taken under the DDA (and across government through the DTA – see comments in the feedback tables).

³ ACMA, *Guide to developing and varying telecommunications codes for registration*, Sept 2015, p.9

Proposal – update the TCP Code to require accessibility policies/governance

Chapter 3 – Organisational Culture and Governance: Accessibility policy and governance requirements [new]

1. CSPs must have policies and supporting materials on the following, managed and overseen by a senior executive:
 - a. Accessibility, including digital accessibility;

Proposal – introduce the concept of inclusive design.

Accessibility issues should not be considered only as an afterthought. To support the idea that it be considered in policies, supporting material and organisational culture, it is proposed that the concept of inclusive design be introduced in guidance.

Chapter 3 - Organisational Culture and Governance [new]

Guidance – best practice: inclusive design

Inclusive design does not suggest that it is always possible (or appropriate) to design one product to address the needs of the entire population. Instead, inclusive design guides an appropriate design response to diversity in the population through:

- developing a family of products and derivatives to provide the best possible coverage of the population.
- ensuring that each individual product has clear and distinct target users.
- reducing the level of ability required to use each product, in order to improve the user experience for a broad range of customers, in a variety of situations.

Specialist solutions may still be required to satisfy the needs of those with particular vulnerabilities or needs.

Reference and for more information: [University of Cambridge Inclusive Design Toolkit.](#)

Proposal – CA to draft a guideline on accessibility.

This would provide more detail on expectations, including in relation to inclusive design, and links to relevant references.

This would likely be something that we would need to tackle after Code registration, which would allow it to appropriately reference expected new guidance on the DDA.

Note: Issues may be covered across a number of papers. All elements of the draft package are to be considered as a whole.

Agreed Position paper: Credit/Debt management (including restriction, suspension, and disconnection)

A. Issue

This paper considers feedback and proposed changes in relation to clause 6.5 (usage notifications); clause 6.6 (reminder notices) and clause 6.7 (Notice to restrict, suspend or disconnect a service for credit and/or debt management reasons).

The paper does not consider feedback/submissions related to credit assessments and the treatment of customers in financial hardship.

Identified consumer concerns

Notification.

- There may not be sufficient notice to customers in relation to debt management process which includes suspension, restriction and disconnection and referral to debt collection agencies.¹
- Auto-top up charges can occur before a customer gets a notification that their 85% usage threshold has been reached. This can cause financial difficulty and earlier notification would be desirable.²
- Disconnections without notice are permitted in certain circumstances under cl. 6.7.1 – is the potential inconvenience to the consumer justified?³

Disconnection.

- Customers identified as being in domestic and family violence (DFV) situations or impacted by natural disasters should be protected from disconnection. (This is in addition to any requirements covered by the Complaints Handling Standard, or Financial Hardship Standard.)⁴
- Customers who have been disconnected incorrectly should be reconnected.

Confusion. Customers do not understand the difference between

- debt management processes for restriction/suspension/ disconnection which apply to post-paid services (where there is a debt), and
- processes relating to non-payment (for example, where an automatic payment is missed) for upfront payment plans (pre-paid and periodic/subscription payments, which exist so that the consumer does not incur debt).

¹ ACMA 2023, Financial hardship in the telco sector Keeping the customer connected, p.39, referenced in ACCAN 2023, ACCAN Response to Telecommunication Consumer Protections Code Review 2024, p. 6.

² ACCAN 2018, Telecommunications Consumer Protections Code Submission, p.11.

³ Ibid, p.16.

⁴ Consumer Action Law Centre 2018, Telecommunications Consumer Protections Code Submission, p. 9, referenced in ACCAN 2023, ACCAN Response to Telecommunication Consumer Protections Code Review 2024.

Identified industry concerns

Some existing TCP Code provisions/ processes are not sufficiently clear.

Considerations for code obligation drafting

How to draft Code obligations so that they appropriately complement the not-yet-complete Telecommunications (Financial Hardship) Industry Standard 2024 (FH Standard).

- The draft FH Standard (released for consultation 24 October 2023) contains proposed detailed obligations related to identifying and communicating with customers who may be in financial hardship, including notifications and processes where disconnection may occur. Concerns raised in submissions about debt management processes linked with financial hardship are likely to be addressed under this instrument. This would leave the TCP Code to only deal with processes for customers not in financial hardship. This drafting cannot be confirmed until the FH Standard is finalised (which will be after the TCP Code 15 December deadline).

How to address consumer concerns despite technical limitations (e.g. around usage notification timing).

How to appropriately alert consumers to issues without causing undue stress.

How to appropriately balance consumer protection from fraud and overspend, and expectations around notification before disconnection.

Desired outcome from TCP Code revision

Interaction between TCP Code obligations and FH Standard obligations is clear and avoids duplication.

Notification and communications requirements address concerns about clarity so that customers understand the consequences of non-payment for services (for post-paid and prepaid services (including upfront/subscription)).

CSPs are clear on circumstances and processes for restriction, suspension, and disconnection for customers not in financial hardship (including for customers experiencing DFV or impacted by natural disasters).

TCP Code notification requirements and processes for customers not in financial hardship are designed in such a way that if a CSP sought to implement one process for the FH Standard it would also satisfy TCP Code requirements (i.e. TCP Code requirements should not be drafted in a way that requires CSPs to implement two processes).

B. Background

Existing Obligations

Source	Detail
TCP Code 6.5.1	Provision of notifications: A Supplier must provide electronic notifications free of Charge to a Service for each Residential Customer who receives either an Included Value Plan or a

	<p>Post-Paid Service for a broadband plan with an included Data allowance where:</p> <ul style="list-style-type: none"> (a) there is no Hard Cap, Shaping (in relation to Data allowance) and/or equivalent measure that applies to the plan; (b) the usage type in question under the plan is not unlimited; and (c) in relation to Included Value Plans, where such plans were launched by the Supplier after 1 March 2012.
TCP Code 6.5.2	<p>Timing of notifications: The electronic notifications in clause 6.5.1 must be provided no later than 48 hours after the Customer has reached the following point each month:</p> <ul style="list-style-type: none"> (a) 50% of the expenditure and/or the Data allowance which forms part of the included value in their plan (and if only one notification is sent by the Supplier, then whichever threshold occurs first); (b) 85% of the expenditure and/or the Data allowance which forms part of the included value in their plan (and if only one notification is sent by the Supplier, then whichever threshold occurs first); and (c) 100% of the expenditure and/or the Data allowance which forms part of the included value in their plan (and if only one notification is sent by the Supplier, then whichever threshold occurs first).
TCP Code 6.6.1	<p>Reminder notices</p> <p>A Supplier must, where issuing reminder notices by email or letter, advise the Customer, or former Customer, of the Supplier's Financial Hardship policy, how to obtain more details on it, and contact details as described in clause 7.1.2.</p>
TCP Code 6.6.2	<p>If the Supplier issues the reminder notice by a method other than email or letter, they must include a link to, or reference, the Financial Hardship policy and contact details as appropriate for the communication method.</p>
TCP Code 6.7	<p>Notice to Restrict, Suspend or Disconnect a service for Credit and/or debt Management Reasons</p> <p>Suppliers must ensure Customers are given adequate notice regarding a decision by the Supplier to Restrict, Suspend or Disconnect their Telecommunications Service for Credit and/or debt Management reasons.</p>
TCP Code 6.7.1	<p>Prior notice of Restriction, Suspension or Disconnection action:</p> <p>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 clause a) applies:</p>

	<p>a) A Supplier may only Restrict, Suspend, or Disconnect a Telecommunications Service for Credit and/or debit Management reasons without first informing the Customer if:</p> <ul style="list-style-type: none"> (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.
TCP Code 6.7.2	<p>Precautions to be taken: When notifying a Customer about a Supplier's Restriction, Suspension or Disconnection of the Customer's Telecommunications Service, a Supplier must:</p> <ul style="list-style-type: none"> (a) make reasonable attempts to ascertain whether the Customer has understood any oral advice given; (b) ensure that attempts to inform are directed to the Customer; and (c) ensure that the primary method of notification used is a format reasonably acceptable to the Customer based on their usage history.
TCP Code 6.7.3	<p>Content of Restriction, Suspension, or Disconnection notice: Notices under clause 6.7.1 must include:</p> <ul style="list-style-type: none"> (a) an indication of the earliest date the Restriction, Suspension or Disconnection could occur; and (b) the date of issue of correspondence if the Customer is informed in writing.
TCP Code 6.7.4	<p>Content of Restriction or Suspension notice: If notifying a Customer about a Supplier's Restriction or Suspension of the Customer's Telecommunications Service by email or letter, inform the Customer of the following, in addition to the information under clause 6.7.3:</p> <ul style="list-style-type: none"> (a) about any on-going or additional Charges that will still apply whilst the Telecommunications Service is Restricted or Suspended; (b) about the Supplier's Financial Hardship policy in case the Customer needs such assistance; (c) and about any impacts the Restriction or Suspension may have on other services the Customer has with the Supplier. <p>If notifying a Customer by a method other than email or letter, include a link to the information detailed in clauses a) to c) above.</p>

TCP Code 6.7.5	<p>Content of Disconnection notice: If notifying a Customer about a Supplier's Disconnection of the Customer's Telecommunications Service, send a separate Disconnection notice, not just a Bill, to the Customer and any relevant Guarantor prior to Disconnecting the Telecommunications Service. The notice of Disconnection, if issued by email or letter, must inform the Customer and Guarantor of the following, in addition to the information under 6.7.3:</p> <ul style="list-style-type: none"> (a) that, after Disconnection has occurred, the Customer's Telecommunications Service plan and/or Telecommunications Product (and/or, where applicable, telephone number), may no longer be available; (b) about any impacts the Disconnection may have on other services the Customer has with the Supplier; (c) about the consequences of non-payment, including that the Customer's default leading to the Disconnection may be disclosed to a Credit Reporting Body and/or collection agency and/or debt buyer and may be added to the Customer's credit file with a Credit Reporting Body; (d) about the Supplier's Financial Hardship policy in case the Customer needs such assistance; that the debt may be passed to a collection agency and/or debt buyer; and (e) that legal action may be taken to recover the unpaid debt. <p>The notice of Disconnection, if issued by a method other than email or letter, must include a link to the information detailed in paragraphs a) to f) above.</p>
TCP Code 6.10	<p>Debt collection</p> <p>6.10.1 Collection activities: While ever it is in force, a Supplier must adopt best practice as set out in the ACCC and ASIC guideline "Debt collection guideline: for collectors and creditors" issued in April 2021 when collecting amounts due.</p> <p>6.10.2 Internal dispute resolution: A Supplier must require that all of the Supplier's debt collection activities have an internal dispute resolution process</p> <p>6.10.3 Debt buyers: A Supplier must only sell a debt to a debt buyer if that debt buyer is a member of the Australian Financial Complaints Authority external dispute resolution scheme.</p> <p>6.10.4 Notification of sale of debt: A Supplier must notify the Customer or former Customer in writing within 25 Working Days that the debt has been sold, or arrange for the purchaser of the debt to do so.</p>

Submissions - ACCAN / TIO / ACMA /

Usage notifications (when reaching certain thresholds of usage) should be provided within an hour of the threshold being reached. Top-ups could be opt-in with clear notification of how to enable/disable this feature.

TIO contact details should be included on reminder, restriction, suspension and disconnection notices

There should be consistent obligations / processes in relation to a missed automatic payment

Notification practices:

- Consumers want to be notified prior to debt being referred to external debt collection agency as some were intimidated by the process and wanted more notice debt collection was going to occur.
- Some consumers want notification via a phone call instead of an sms. (Although there seem to be differing views on preferred communication methods).
- Minimum requirements, such as:
 - Send a disconnection warning notice, followed by a separate disconnection notice, before disconnecting
 - Make genuine attempts to contact the consumer to discuss payment assistance options in addition to sending the notices (likely to be covered by the FH Standard)
 - The exception in clause 6.7.1 (a) that allows a CSP to disconnect a service without notice should be removed and there should be consistency in suspension/disconnection obligations.

Drafting Committee (DC) note: Some concerns raised in relation to debt management processes could be better addressed by considering selling practices, credit assessments, payments and processes relating to financial hardship (which will now be covered under the proposed FH Standard).

Industry submissions

Courtesy notices could be issued in addition to the required reminder notices under 6.6 / 6.7.

Potential duplication with economy wide ACCC debt collection guidelines

Consider in relation to responsible selling whether there needs to be more explanation about device payment plans.

Is the definition of restriction clear?

Cl. 6.5.1 - Include reference to Telco Service provider – mobile roaming determination.

Cl. 6.7.2(c) - clarify what is meant by 'on their usage history'

Clause 7.1.2(a) repeats clause 6.6 – that FH contact details must be provided to customers.

C. Draft revised proposed code provisions.

Summary - New obligations to:

- keep customers connected/not disconnect customers that the CSP has identified as being affected by DFV* or impacted by a natural disaster (leveraging approach in the future FH Standard)
*in line with DFV policies – i.e. where this is safe, requested by/agreed with the affected person, who may be the end-user.
- reconnect customers if the customer indicates they would like this, if the customer is disconnected in error, or is not provided with required disconnection notice.
- provide additional information for **suspension notices** to include notice to the customer that consequences for ultimately failing to pay the debt could result in the debt being referred to a debt collection agency (if relevant), and to highlight seriousness of situation.
- provide additional information in **disconnection notices** to highlight seriousness of situation.
- provide clear information for **all plan types** about the consequences of missed automatic payments. (Addressed in payments and essential information papers, noted here as they are relevant to disconnections).

Summary - Amendments/clarifications:

- Amend clause to clarify that the obligations in **suspension and disconnection notices** to include notice about debt referral consequences are only required if relevant, considering the CSP's practices.
- Other amendments/clarifications set out in the table below to address industry submissions.

Proposal - *New obligations to keep customers connected/not disconnect customers that the CSP has identified as being affected by Domestic or Family Violence or impacted by a natural disaster (adopting approach in the future FH Standard)*

Recognising the particular importance of keeping customers identified as experiencing DFV or impacted by a natural disaster connected to their telecommunications services, the DC proposes to include a new obligation on CSPs to appropriately protect these customers from disconnection.

The approach will be consistent with the future FH Standard.

See also DFV position paper.

[Chapter 9 - Credit management, debt management and disconnection: Protecting DFV-affected consumers from disconnection \[new\]](#)

1. Once a CSP becomes aware a consumer is affected by DFV, it must protect the affected person's service(s) from disconnection.

Guidance – protecting a DFV-affected person's service from disconnection

The loss of service is a major disruption for anyone, but for a DFV-affected person the consequences can be particularly significant and far-reaching.

'Protecting' from disconnection does not mean that a person's service cannot be disconnected, or that it will be maintained in perpetuity, regardless of circumstance. Rather, it means that there are additional protections in place to shield a DFV-affected customer from unwanted disconnection or interruption of service while their matter is being actively managed by the CSP.

Responses to DFV must be consumer-led; the DFV-affected person knows best how to keep themselves safe. While most DFV-affected consumers are likely to prioritise maintaining connection, there may be occasions where they choose to disconnect a service. There may also be times when it is otherwise necessary to disconnect their service to prevent or reduce possible harm, where there is evidence of fraud or other legitimate reason for disconnection.

In addition to general protections from disconnection under *financial hardship* obligations, the ability to manage a number - including initiating transfers, ports or disconnections - rests with a customer as the rights of use holder (C566 Number Management – Use of Numbers by Customers Industry Code). This means a DFV-affected end user cannot manage a number, even if they have used it for years and it is their known contact number with friends, family and support services. CSPs should have processes in place to ensure the service of a DFV-affected end user is not disconnected, interrupted, or ported while the CSP is managing a rights of use dispute.

For further guidance see [G660 Assisting Consumers Affected by Domestic and Family Violence Industry Guideline](#).

Chapter 9 - Credit management, debt management and disconnection: Protecting consumers affected by a natural disaster from disconnection [new]

[pending drafting]

Proposal - *New obligation to reconnect customers disconnected in error or without required notice*

New obligation will require the CSP to:

- reconnect a telecommunications service which was disconnected in error;
- reconnect a telecommunications service disconnected without the required notification (unless the customer advises that they do not wish the CSP to do so).

This recognises the importance of continued connection to telecommunication services and provides a positive obligation for the CSP to remedy errors by restoring the service.

Drafting will need to consider how to take into account varying circumstances in which it may no longer be feasible to reconnect the service, nor what the customer wants.

Chapter 9 - Credit management, debt management and disconnection:
Disconnected in error [new]

1. Where a customer's telecommunication service has been disconnected in error, the CSP must reconnect the service.
2. Where a telecommunications service has been disconnected without the required notification [refer to the notices required], the CSP must reconnect the service, unless the customer advises that they do not wish the CSP to do so.
3. CSPs must keep accurate records of the customer's indication.

Proposal - New obligation to require **suspension notice** to include, if relevant, reference to potential referral of debt and for **suspension notice and disconnection notice**, highlight seriousness of situation.

The DC will include an additional information requirement that, if relevant, suspension notices must include notice to the customer that failing to pay the debt could result in the debt being referred to a debt collection agency. Note:

- 'If relevant' ensures that customers are not sent information about action that the CSP will not take (for more details, see submission table).
- This requirement currently exists for disconnection notices only. This sits alongside the existing requirement to outline/refer to the CSP's financial hardship policy.

The DC will also include an additional requirement for the suspension notice and separate disconnection notice to include words that draw the attention of the customer to the notice and highlight the seriousness of the situation.

The DC notes concerns that communications can be threatening and the debt collection process intimidating. However, on balance, it considers there is benefit of a notice at suspension stage, before progressing to disconnection notice, to highlight potential consequences of customer inaction. This would provide an opportunity to encourage the customer to have a conversation with their CSP about their circumstances and needs, which may lead to the customer accessing the CSP's financial hardship policy.

[Drafting note: Separate clauses for each of the restriction, suspension or disconnection notices will be drafted to clarify what is required for each notice.]

Chapter 9 - Credit management, debt management and disconnection:
Suspension notices [update 6.7.3, 6.7.4]

Clauses:

A **Suspension notice** [where required] must include:

- 1 (a)...[retain current content requirements in 6.7.3, 6.7.4 a, b, c]

Amendments in red

Add: [notices must include, where applicable:]

(d) that the debt may be passed to a collection agency and/or debt buyer;
and

(e) that legal action may be taken to recover the unpaid debt'

(f) Prominently display the words "important notice – please read" or similar.

Chapter 9 - Credit management, debt management and disconnection:
Disconnection notices [update 6.7.3, 6.7.4]

A **Disconnection notice** [where required] must include:

1 (a) ...[retain current content requirements in 6.7.5 a, b, and d]

(c) about the consequences of non-payment, including that the Customer's default leading to the Disconnection may be disclosed to a Credit Reporting Body and/or collection agency and/or debt buyer and may be added to the Customer's credit file with a Credit Reporting Body;

(e) that the debt may be passed to a collection agency and/or debt buyer; and

(f) that legal action may be taken to recover the unpaid debt'

Add:

(g) Prominently display the words "important notice – please read" or similar.

Guidance

Disconnection notices are intended to be a clear statement of the CSP's next steps and customer consequences of non-payment of **debt**. A customer typically incurs debt when they purchase a telecommunication service for which they pay after they have used the service, or where the customer has agreed to purchase a device or other equipment from the CSP on a contracted payment plan over time.

These restriction, suspension and disconnection notice requirements *do not apply* to any services for which the customer has paid in advance of using the service. This includes telecommunications services which are 'pre-paid', 'upfront' and 'subscription type' plans. See separate 'Reminder Notice' requirements which set out what communications need to be sent to customers who have pre-paid and upfront plans.

'Where required': CSPs should include all likely or potential consequences of non-payment of debt and convey the seriousness of the communication without seeking to alarm or intimidate customers. Clauses under 'where required' must be included only if the indicated action is a debt management step that the CSP may actually apply. (This accommodates the variation in CSPs' debt management commercial practices. For example, where it is not the CSP's policy to take legal action to recover unpaid debt, there is not a requirement to include a notification about legal action in the CSP's disconnection notices.

Notes on this proposal:

- Communications should be via the CSP's usual business practices and customers' preferred method/s of communication. The DC does not propose to mandate notification requirements via specific methods of communication (such as a phone call). It can be difficult to contact customers by phone, as customers are wary of answering / returning calls given the increase in scam calls.

- The DC does not propose amendments to the TCP Code to specifically address concerns such notices are 'intimidating'. Communications must be clear and accurate. Specific content requirements regarding consequences may, by their very nature, be perceived by some as intimidating. On balance, and considering ACMA feedback to CSPs on their notifications, the requirement for clear and accurate information has to take priority over any attempts to use 'softer language' which may be confusing to the customer.
- In considering the interplay between any notification and identification of financial hardship cases under the future FH Standard and TCP Code processes for non-FH debt management, we consider it may be simplest to insert a clause into the TCP Code to clarify the application of notification/debt management processes in the TCP Code, noting this is challenging and a general approach is likely to be taken given the future FH Standard will not be finalised until next year.

Proposal - *New obligations to provide clear information for all plan types about the consequences of missed automatic payments.*

The issues raised in submissions would appear to relate to confusion about the difference in payments and processes related to all plan types, particularly where an upfront payment service may be supplied in conjunction with a device on a payment plan that would be considered a debt. New information-provision requirements would address this.

See also Payment Methods and Essential Information papers.

Notes:

- All types of prepaid plans have significant financial management benefits for the consumer, as there is no capability for a customer to incur debt and end up in debt management processes relating to the plan's telecommunication services.
- **Reminder notices** for missed automatic payments have been discussed in the paper on 'Payments' and will be included in the Payments chapter of the TCP Code. This includes the proposal that there be a formal requirement for reminder notices for missed automatic payments.
- See also the 'Essential information' paper on the provision of information about the nature of service and bundled products during a sale.

Proposal - *other updates to take into account comments made in industry submissions:*

Submission	Proposed approach
Is the definition of restriction clear?	We will review use of and explanation of 'restriction' or 'limitation' in the Code and ensure these are clear. Include examples to illustrate explanations.
6.5.1 Include reference to Telco Service provider –	We will include guidance note to refer to determination.

mobile roaming determination.	
6.7.2(c) clarify what is meant by 'on their usage history'	This may be better to refer to a customer's communication preferences (if known or based on past communication history). We will consider updating reference to refer to customer's communication preferences (if known or based on past communication history).
6.7.5(f) – requires a CSP to state in a disconnection notice that legal action may be taken to recover the unpaid debt, even when CSPs have decided they will not do this.	See above discussion to review content of restriction/suspension/disconnection notices. Amend the sub-clause so that it's clear the notice about legal action is only mentioned if the CSP will do this. If a CSP has no intention of taking legal action and will never do so this content is unnecessarily alarming.
Note we also considered the below industry submissions relevant to this topic and have noted proposals where appropriate.	
Courtesy notices could be issued in addition to the required reminder notices under 6.6 / 6.7.	We considered there is limited consumer benefit to adding a new obligation to issue 'courtesy notices' on top of notices already required. However, additional reminder notices where there are missed automatic payments are proposed – see Payments paper.
Duplication with economy wide ACCC debt collection guidelines	Existing code processes are consistent with the ACCC debt collection guidelines and these overarching guidelines should be borne in mind when considering obligations in the TCP Code.
Consider in relation to responsible selling whether there needs to be more explanation about device payment plans.	Device payment plans can be a driver of debt and there may be lack of clarity with the consumer about the consequences of changing or cancelling a telco service and what this means for device payment plans. See Essential information and Selling practices papers for proposals.
Clause 7.1.2(a) repeats clause 6.6 – that FH contact details must be provided to customers.	Consider if this clause is intended to be broader than the specific requirements in clause 6.6 to include reference to FH contact details in reminder notices. Perhaps consider if it just needs to be reworded to ensure this is a general obligation to make this information available.

Other DC considerations:

- **Spend management tools** - whether it is possible for CSPs to send usage notifications more promptly than the 'no later than 48 hours' currently required. However, it is not technically feasible to ensure that usage notifications are sent within the hour, as proposed in some submissions. It also is not feasible to decrease this time in all cases to less than 48 hours. This is because, while many usage notifications will be sent within a day or less, some usage notifications are not able to be sent until later due to time lags in CSPs receiving some data (such as potential delays receiving data from other network operators when a customer is roaming).
- **Restrict, suspend and disconnect services without notice** - Clause 6.7.1 (a) allows CSPs to restrict, suspend and disconnect services without notice in certain circumstances. These circumstances are clearly defined and are intended to protect the consumer and other telecommunications users – (e.g. where the CSP reasonably suspects fraud, or where the service is suddenly being used in a way that is running up excessively high charges and immediate action is required to prevent the customer incurring a large debt).

The DC considers that the exceptions are necessary and appropriate, as the benefits provided by protecting telecommunications users outweigh concerns the clause could be used as a 'loophole' to restrict, suspend or disconnect customers without notice. The DC also notes that it is not in the interests of CSPs to restrict, suspend or disconnect customers without notice without good reason, as this would be a poor consumer experience.

The DC has considered whether there is benefit to requiring that there be some form of communication to the customer that their service will be restricted, suspended or disconnected in the limited circumstances set out in clause 6.7.1 (a). However, the DC considers that this is likely not feasible nor beneficial given the aims of the section to prevent consumer harm.

- **Suggested amendments to restriction, suspension and disconnection notices** - The DC reviewed notice requirements to consider how to best convey the importance of the consumer contacting their CSP to discuss their needs and circumstances, and the relevant consequences if they do nothing. To achieve this, notices need to be focussed on key information only.

In response to calls in submissions and recent TIO feedback to include TIO contact information on restriction, suspension and disconnection notices, the DC notes that:

- There are existing obligations to include in these notices information on/link to a CSP's Financial Hardship Policy which will be retained. The Financial Hardship Policy must include the TIO's details, alongside information of several other resources for consumer support.
- There are also existing obligations to advise the consumer of their rights to contact the TIO where there is a complaint/dispute.

- The customer should contact their CSP in the first instance prior to contacting the TIO (consistent with the TIO's advice about dispute resolution). A missed payment is not necessarily due to a dispute.
- Where more information is required to be included in these notices it risks overloading consumers with information. This could cause the customer to miss important information relating to their service, debt and other required content of various notices (including reference to financial hardship policies – which already include the TIO's details).

The DC remains of the view that, on balance, it is better to focus only on the key messages and not specifically include the TIO's details in the body of the restriction, suspension or disconnection notices.

Note: Issues may be covered across a number of papers. All elements of the draft package are to be considered as a whole.

Agreed position paper: credit assessments

A. Issue

Identified consumer problem

Credit assessment processes do not adequately address the risk of financial harm. There are three critical residential consumer harms to address: financial overcommitment, financial hardship, and debt/default listing.

Credit assessment processes do not address the risk of financial harm associated with the current telecommunications products, including the move to 'upfront' or 'subscription' services.

Residential consumers may be assessed on their capacity to make payment for a single telecommunications product; however, increasingly, it is the totality of their account that is the source of financial harm, specifically harm from ancillary telecommunications goods payment requirements (e.g. mobile devices sold on a payment plan in connection with the service).

Desired outcome from TCP Code revision

A balance between managing the risk of financial harm for the residential consumer and supporting connectivity and access to telecommunications services.

A balance between managing the risk of financial harm for the residential consumer and the collection, use and disclosure of personal information in a fair and reasonable way in the circumstances of providing a telecommunications product.

Considerations for code obligation drafting

Updates must not create unnecessary barriers or overly prescriptive or complex credit assessment processes that prevent consumers from accessing telecommunications products.

There is no single solution to address the risk of financial harm to residential consumers when accessing a telecommunications product.

Awareness of the role of CSPs in the credit reporting framework, including lack of access to comprehensive credit reporting and the need to avoid unnecessary credit reports, which negatively impact a consumer's credit file.

Privacy considerations

Ensure the collection, use and disclosure of personal information is fair and reasonable in the circumstances of the credit assessment process. This should be determined with assistance from OAIC guidance, consideration of the risk of financial harm, and the sensitivity of the data collected.

No evidence should be required from residential consumers about their financial circumstances unless the CSP can demonstrate a purpose commensurate to the risk of collection.

B. Background

Existing Obligations

Source	Detail
TCP Code cl 4.5.1	Responsible approach to selling: A Supplier must ensure its Sales Representatives: <ul style="list-style-type: none"> 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.
TCP Code cl 6.1	Suppliers must undertake a Credit Assessment before providing a Post-Paid Service with a minimum term greater than one month to a Consumer, and explain the financial implications of the provision of that Post-Paid Service to the Consumer or their Guarantor.
TCP Code cl 6.1.1	Assess capacity to pay: For all Post-Paid Services with a minimum term greater than one month to be provided to a Residential Customer, a Supplier must undertake a Credit Assessment, the intention of which is to prevent Consumer over-commitment and to enable a Supplier to recover the Charges.
TCP Code cl 6.1.1 (a)	To determine the Consumer's financial capacity to meet their contracted obligations, a Credit Assessment must include at a minimum the following steps (this does not restrict the Supplier's ability to establish further information for the purpose of a Credit Assessment): <ul style="list-style-type: none"> a) Existing Customers: For an existing Residential Customer who seeks to purchase additional Post-Paid Services the Supplier must undertake a check of that Customer's payment history with the Supplier;
TCP Code cl 6.1.1 (b)	To determine the Consumer's financial capacity to meet their contracted obligations, a Credit Assessment must include at a minimum the following steps (this does not restrict the Supplier's ability to establish further information for the purpose of a Credit Assessment): <p>[...]</p> <ul style="list-style-type: none"> b) New Customers: For a new Residential Customer seeking to purchase one or more Post-Paid Services with the Supplier which have an aggregate Minimum Quantifiable Price of greater than \$1,000, the Supplier must: <ul style="list-style-type: none"> (i) Financial capacity details: obtain details from the Consumer as to how they will be able to afford their commitments under the Customer Contract. This may be via savings, wages, or another form of income. Where the primary source of income is from employment, identify the

	employment circumstances (e.g. whether they are part-time, full-time, or permanently employed); and (ii) External credit check: obtain an external credit check from a credit reporting body.
TCP Code cl 6.1.2	Outcome of Credit Assessment: Following the Credit Assessment, if a Supplier concludes that a Consumer would be unable to satisfy their financial obligations under the Customer Contract, or would only be able to meet those financial obligations by incurring substantial hardship, the Supplier must: a) advise the Consumer of that outcome; and b) provide the Consumer with information about alternative products or services that may meet their needs, such as lower-cost contracts or Pre-Paid Services.
Privacy (Credit Reporting) Code 2014 clause 9, Privacy Act Part IIIA Provisions, s6Q	Preconditions to the disclosure of default information include – the consumer credit payment must be overdue by at least 60 days, the overdue amount must not be less than \$150 (or if a higher amount is prescribed by the Regulations, that amount) and the CP must have met the notice obligations specified in Part IIIA, the Regulations and this CR code.

Submissions

ACCAN – CSPs must be required to assess the suitability of a post-paid service against a consumer's capacity to pay. This should, at minimum, include:

- Proof of customer's income
- Proof of customer's housing costs (rent receipt, copy of lease, mortgage repayments)

TIO – The Code should include more comprehensive requirements for Credit Assessments to assess a consumer's capacity to pay and protect them from financial over-commitment. At a minimum, an effective credit check should include:

- consumers' income,
- the cost of their existing telco services,
- their living expenses, and
- other financial liabilities.

A more comprehensive Credit Assessment obligation would require CSPs to collect more personal information. Any extra collection of personal information comes with a level of privacy risk for consumers [as this information should be retained as part of the process]. The Code should therefore prescribe a time frame after which CSPs must destroy credit assessment information. Despite the privacy risk, on balance, the TIO considers that a more comprehensive Credit Assessment obligation would be in the best interests of consumers and CSPs.

ACMA – Responsible selling obligations should be framed around the need for sales practices to deliver fair, transparent and responsible outcomes for the consumer. In the UK, 'unfairness' is defined as causing a significant imbalance in the parties' rights and detriment to the consumer. The consideration for unfairness

considers all circumstances existing when the terms of sale were agreed to, which includes a person's vulnerability.

Other research

The Drafting Committee (DC) also reviewed additional research relevant to credit assessments, consumer risk and personal information:

- [TIO - Thematic review: Our financial hardship complaints 2021 – 2023](#): Most hardship complaints involve mobile services. [...] In recent years, CSPs have moved away from charging fees. In these circumstances, many CSPs now only charge the consumer for the remaining value of any equipment that was tied to their plan. [...] However, the high cost of many mobile handsets and accessories means mobile device payout fees remain a significant concern for consumers experiencing hardship.
- [National Energy Retail Rules](#): Rule 39, Consideration of credit history.
- [NIAA - First Nations Digital Inclusion Plan \(2023-26\)](#) and [First Nations Digital Inclusion Advisory Group – Initial Report 2023](#): There is a need to address the structural issues affecting affordability, including barriers to uptake of postpaid services.
- [OAIC - Australian Community Attitudes to Privacy Survey 2023 \(OAIC report\)](#): Australians generally consider it fair and reasonable to share some personal information with a CSP (65% rate CSPs as 'very', 'somewhat trustworthy', or 'neither trustworthy or untrustworthy') (see Fig. 30). Name, email address, phone number, date of birth and address are considered acceptable or appropriate to collect (see Fig. 34). However, Australians are reluctant to share more granular data to access a telecommunications service - only 3% of Australians consider it appropriate to share financial information with their CSP while 7% consider it appropriate to share household composition information.
- [OAIC report](#): A quarter (26%) of Australians believe the most important way an organisation can protect their personal information is by only collecting the information necessary to provide the product or service.
- [OAIC report](#): 3/4 of Australians believe data breaches are among their most significant privacy risks.

The Privacy Act and comprehensive credit reporting

CSPs who sell postpaid products have credit reporting obligations under the *Privacy Act 1988*, specifically Part IIIA. Part IIIA is supported by the *Privacy Regulation 2013* and the *Privacy (Credit Reporting) Code 2014 (CR Code)*.

The *Privacy Act* aims to support an effective credit reporting system while protecting individuals' privacy. Credit reporting laws balance the need for credit providers to access enough information for informed credit decisions with individuals' concerns about their personal data. This balance respects privacy

while allowing credit providers to make well-informed decisions about extending credit.

Comprehensive credit reporting (CCR) informs credit providers when assessing credit applications by allowing certain information to be shared about a consumer's credit history – both 'positive' and 'negative' information:

- negative data includes late or overdue payments, the number of credit enquiries, and defaults.
- positive data includes repayment history, types of credit accounts, and current limits on credit products.

This has helped give creditors a more accurate view of a consumer's creditworthiness.

Access to positive data CCR is limited – see *Privacy Act 1988*, Part IIIA, Division 2, Subdivision D, s20E(4,4A) to a credit provider who is a licensee (i.e. the holder of an Australian Credit Licence under *the National Consumer Credit Protection Act 2009*) or is prescribed by the regulations or a mortgage insurer.

This limitation means CSPs receive only 'negative' credit reports. This is of particular importance when assessing the creditworthiness of existing customers. Once a customer has a service with a CSP, the CSP can consider 'positive' factors about the customer it can access – including payment history and affordability indicators. However, unless the customer has a new 'negative' indicator on their credit report, running an external credit check will not illicit any new information the CSP cannot determine through their own internal checks. The only impact will be a new (unnecessary) credit enquiry on the customer's credit file, which has a negative impact on their credit file.

C. Draft revised proposed code provisions

Proposal - refresh credit assessment clauses

A refreshed credit assessment requirement, designed to address the risk of financial harm through financial overcommitment, credit management and defaults.

Additionally, there will be a collection of updates to the Code to address the underlying causes of harm connected with responsible selling:

- Selling practice review and responsible selling (see 'Positions Paper – selling practices').
- Support vulnerable consumers (see 'Positions Paper – vulnerable consumers').
- Privacy obligations.

- Financial hardship protections will be dealt with under the draft *Telecommunications (Financial Hardship) Industry Standard 2024*.

Proposal - credit management, debt risk

A new obligation will consider the risk of financial harm to residential consumers - a risk of a debt or default listing where the potential debt may be \$150 or more, in line with the *Privacy (Credit Reporting) Code 2014*.

Chapter 6 - Responsible selling: Sales, contracts and credit assessments: Assess capacity to pay and manage debt, new postpaid customers [update cl 6.1]

1. Before entering a contract with a new residential *consumer* or an existing residential *prepaid customer*, a CSP must complete a credit assessment where a contract:
 - a. may result in a debt owed by the *consumer* equal to or greater than \$150; and
 - b. the debt will be pursued by the CSP.
2. A *credit assessment* must include:
 - a. consideration of the *consumer's* financial circumstances, including:
 - i. employment status (e.g. part-time, full-time, casual, unemployed, self-employed, retired); and
 - ii. employment type (e.g. professional, student, hospitality, retail, construction); and
 - iii. affordability indicators (e.g. income, age, time at current address, residential status, data held within credit file, financial hardship indicators, general expenses, telecommunication expenses); and
 - b. an external credit check from a credit reporting body.

Chapter 6 - Responsible selling: Sales, contracts and credit assessments: Assess capacity to pay and manage debt, existing postpaid customers [update cl 6.1]

3. Before entering a new contract with an existing residential *customer*, a CSP must complete a credit assessment where a contract:
 - a. may result in a debt owed by the *consumer* equal to or greater than \$150; and
 - b. the debt will be pursued by the CSP.
1. A *credit assessment* must include:
 - a. consideration of the *consumer's* financial circumstances, including:
 - i. employment status (e.g. part-time, full-time, casual, unemployed, self-employed, retired); or
 - ii. employment type (e.g. professional, student, hospitality, retail, construction); or
 - iii. affordability indicators (e.g. income, age, time at current address, residential status, data held within credit file,

- financial hardship indicators, general expenses, telecommunication expenses); or
- b. a review of the customer's payment history with the CSP; or
 - c. where the customer is seeking to increase their current credit limit with their CSP, a new external credit check from a credit reporting body. A CSP must gain the consumers consent to request a new check.

Guidance: Calculating Potential Debt

Contracts may result in a debt owed by the *consumer* equal to or greater than \$150 includes contracts where:

- the minimum quantifiable price is equal to or greater than \$150; or
- the use of the telecommunications product may result in charges that the customer must pay for after usage; or
- charges for the telecommunications product will continue to be billed while the service is active.

The amount of \$150 is based on the risk a consumer may have a default listed against their name, in line with the *Privacy (Credit Reporting) Code 2014.*]

Guidance: Pursuing Debt

Debt pursued by the CSP includes action specific to recover a debt including internal collections activities, reporting to a credit agency, on-selling or referring the debt or the issue of debt collection communications.

Debt collection communications do not include communications to customers about the potential suspension or restriction of their service.

If a CSP has a policy to waive debt rather than pursue debt, it does not affect its obligations to sell responsibly [link to relevant clause].

Guidance: evidence of financial circumstances

CSPs should not require evidence from the consumer about their financial circumstances unless the CSP can demonstrate a risk proportionate to the risk of collecting personal information.

Evidence may be required where the consumer has a poor credit history, previously declined credit assessments or where a consumer is seeking to overturn a declined credit assessment.

Where evidence is provided, sighting the supporting material is sufficient, with no requirement to retain the information beyond what a CSP determines is necessary for their own record keeping.]

Proposal - outcome of failed credit assessment

Where a residential consumer fails a credit assessment, the current cl 6.1.2 would result in the residential consumer being directed to a more appropriate telecommunications product that better suits their financial circumstances.

No major updates to the function of this clause are recommended beyond adding clarity that the intent of (b) is for the CSP to direct the consumer to an appropriate alternative based on the outcome of their credit assessment. The clause will also be updated in line with the simple English updates.

Chapter 6 - Responsible selling: Sales, contracts and credit assessments: Declined credit assessment, [update cl 6.1.2]

1. Following a credit assessment, if a CSP concludes that a consumer does not qualify for the requested *telecommunications product*, the CSP must:
 - a. advise the consumer that their credit assessment was declined; and
 - b. provide the consumer with information about alternate *telecommunications products* that the CSP has determined meet their requirements in accordance with the outcome of the credit assessment.

Guidance

Add guidance on 'alternative *telecommunications products*', including prepaid services or low-cost options.

Note: Issues may be covered across a number of papers. All elements of the draft package are to be considered as a whole.

Agreed Position paper: Customer Service

A. Issue

Identified consumer problem

- There are no benchmarks for acceptable customer service arrangements in the Code.¹
- Protections need to be updated to ensure consistent and effective customer service outcomes, regardless of the communication method that consumers use to contact their CSP.

Considerations for code obligation drafting

- There are limitations on how tailored each support mechanism needs to be.
- The type of support needs to have considerations for residential customers and businesses.
- Support provisions for smaller providers may not be able to match that of larger providers.
- The requirements should be flexible enough to allow for a reflection of consumer demands and be appropriately 'future-proof'.
- The requirements should not require contact methods be provided that are never utilised, thereby increasing costs to consumers unnecessarily.

Note:

- Complaints are managed separately through the Telecommunications (Consumer Complaints Handling) Industry Standard 2018 (general contact options are in scope).
- Accessibility issues are covered in a separate paper.

Desired outcome from TCP Code revision

- All consumers are treated fairly and reasonably, so they are less likely to experience vulnerability and harm when accessing and maintaining telecommunications services.
- Consumers are able to easily and conveniently contact their CSP with enquiries or problems.
- Consumer problems are dealt with efficiently (efficient case management).
- CSPs are able to compete on service provision and customers are able to make informed choices about the type of service they wish to have available to them.

¹ ACCAN 2018, *Telecommunications Consumer Protections Code Submission*, p.12, referenced in ACCAN 2023, *ACCAN Response to Telecommunications Consumer Protections (TCP) Code Review 2024.*.

B. Background

Existing Obligations

Source	Detail
TCP Code 4.7.1	<p>Effective service: A Supplier must ensure enquiries by Customers are dealt with by the Supplier in a timely and effective manner.</p> <p>A Supplier must take the following actions to enable this outcome:</p> <ul style="list-style-type: none"> a) Access: inform Customers how to contact the Supplier about Customer Service enquiries and the hours of operation of these contact methods; b) Average wait times: monitor average wait times experienced by Customers to communicate with a Supplier about a Customer Service enquiry and seek to keep the average wait times to a reasonable minimum in the circumstances; c) First contact resolution: monitor the level of first contact resolution of Customer Service enquiries, take reasonable steps to understand the root causes for why enquiries cannot be resolved at first contact, and address those root causes; and d) Record keeping: keep records of interactions between the Supplier and Customers accessible to staff tasked with responding to such Customer Service enquiries, to aid in resolving Customer Service enquiries. <ul style="list-style-type: none"> (i) Provision of records: Following a Customer's request, provide to the Customer or former Customer records kept under clause 4.7.1 d) for as long as the Supplier retains those records. (ii) Cost of providing records: If a Charge for providing the records kept under clause 4.7.1 d) is charged by the Supplier, limit that Charge to no more than the reasonable cost of finding, accessing, arranging, and providing the information.
TCP Code chpt 8	The Rules that apply to Consumer complaints handling are currently set out in the ACMA's Telecommunications (Consumer Complaints Handling) Industry Standard 2018

Submissions

ACCAN – Amend provision 4.7.1 to read as: 'suppliers must deal with simple enquiries within a maximum of two working days and more complex inquiries within five working days.'² (This recommendation was supported in CALC/WEjustice's submission but also provided additional recommendations.)

ACCC – Consumers do not have the ability to effectively engage with telecommunications suppliers, and to understand the products or services they are acquiring, as well as the support available to them if they so require.

Some issues regarding support channels overlap with the Vulnerable Consumers and Accessibility Papers. Where this is the case, these contributions are noted there and not replicated here.

C. Draft revised proposed code provisions

Note that example draft clauses may address the issues outlined in more than one proposal.

Proposal – *enhanced prominence and focus on meeting the needs of consumers through a new 'supporting the consumer' (or similar title) chapter.*

See sample drafting below.

Covered across a number of other position papers, including *vulnerable consumers*.

Proposal – *available customer service channels and related information is clearly communicated*

The Code will include provisions to require that:

- CSPs make available clear information about the available contact channels for consumer enquiries, assistance, and support to enable customers to make an informed decision about a service to purchase, including in relation to the support channels available to them.

Chapter 7 – Customer Service: Contact channels [new clause]

1. CSPs must make available:
 - a. clear information on their website about the customer contact channels available; and
 - b. the hours of operation for that contact method.

Chapter 7 – Customer Service: Effective service [update current 4.7.1]

1. CSPs must ensure that they deal with enquiries in a timely and effective manner.

² ACCAN 2018, *Telecommunications Consumer Protections Code Submission*, p.12, referenced in ACCAN 2023, *ACCAN Response to Telecommunications Consumer Protections (TCP) Code Review 2024*.

2. CSPs must keep records of interactions between the CSP and customers and:
 - a. make these records accessible to staff tasked with responding to customer enquiries, to aid in resolving those enquiries;
 - b. where requested by a customer, provide to the customer or former customer the records kept for as long as the CSP retains those records; and
 - c. if the CSP charges a fee for providing the records kept, limit that fee to no more than the reasonable cost of finding, accessing, arranging, and providing the information.

Note: drafting would include appropriate exceptions to the requirements outlined at (a) and (b) e.g. to make it clear that these requirements would not apply where such action might jeopardise the safety of a victim of domestic and family violence.

Proposal – *clear customer service escalation pathways*

CSPs have at least one contact channel for the consumer that enables the consumer to communicate with a real person in real time, or near real time. This might include phone, or live chat (not bot).

CSPs have clear escalation pathways to enable a consumer to speak to a real person. This might be a phone number or similar voice service. Or it might be an ability to request a call back (i.e. an outward-bound voice call from the CSP.)

These options would be in addition to ensuring that accessibility requirements are appropriately met. See 'Accessibility' position paper.

Chapter 7 – Customer Service: Contact channels [new clause]

1. CSPs must provide at least one contact channel that enables customers to communicate with a representative in real time, or near real time.

Guidance – to be drafted – per the proposal commentary

Proposal – *new requirement in relation to case management*

The Drafting Committee (DC) proposes to include a clause requiring that CSPs be able to demonstrate case management processes and procedures: have been designed to prioritise customer safety and security, and progress towards a workable and satisfactory outcome for the consumer, while also appropriately balancing the desire to:

- avoid or minimise the need for a customer to constantly repeat details of their situation or problem, and
- consider the compromise between repetition of the issue and wait time (noting that warm transfers may cause delays).

Best practice in case management will depend on the issues being addressed. For example, case management for customers affected by domestic and family violence may be different to that for a customer with an enquiry about coverage.

Time restraints mean that no sample drafting included, but case management issues are addressed in the DFV Guideline. We will be reviewing the appropriateness of that wording and including something similar in this Code.

Proposal – clearer requirement about the management of the ongoing relationship with a customer.

The DC will include information and/or provisions around:

- understanding that consumer needs can change;
- making all reasonable efforts to be able to meet those needs; and
- providing access to timely advice and support, including, where relevant, in relation to external referrals, should the CSP be unable to offer services to assist the customer's specific needs.

Chapter 6 – Responsible selling: Sales, credit assessments and contracts:
Meeting consumer needs [update current 4.5.2]

1. Where a consumer identifies a particular need to a CSP, the CSP must advise the consumer of offers it has that would appear to best match the identified need.
2. A CSP must:
 - a. ensure representatives are appropriately trained to assist the consumer identify their needs, and to advise consumers on offers that the CSP has available that best match those needs;
 - b. provide information that can help consumers predict their typical telecommunications usage; and
 - c. identify which of their available offers would likely be most suitable for a consumer with the identified usage pattern.

Guidance – Identified needs

Guidance to be drafted, but will be along the lines of:

A consumer's identified needs could include anything from needing large amounts of data, or data sharing amongst family members, wanting a plan that offers the best deal for calling a designated country regularly, or meeting certain budgetary needs.

It also includes the needs of those with disabilities or in other potentially vulnerable situations. See also xxxx (cross reference to be included to relevant chapters).

Note: Issues may be covered across a number of papers. All elements of the draft package are to be considered as a whole.

Agreed position paper: Supporting consumers affected by domestic and family violence

A. Issue

Identified consumer problem

Protections for consumers experiencing domestic and family violence (DFV) are not mandatory.

Considerations for code obligation drafting

How to provide support for those affected by DFV safely and appropriately:

- noting potential complicating factors and not dictating a particular course of action or solution (solutions must be flexible and consumer-led).
- recognising and accommodating different CSP business structures, models, and sizes.
- recognising and managing the numerous obligations set out in other instruments that affect the issues (e.g. Customer Authentication Determination; Pre-paid ID Determination).
- not duplicating obligations set out elsewhere.

Desired outcome from TCP Code revision

Clear and meaningful provisions are designed to help CSPs identify and safely assist consumers affected by DFV, including safely maintaining connection.

B. Background

Existing Obligations

Source	Detail
C566: 2023 Number Management – Use of Numbers by Customers	<p>4.3.3 A CSP may make a Listed Carriage Service subject to terms and conditions as outlined in a Standard Form of Agreement and a breach of these terms or conditions may result in Disconnection of the Listed Carriage Service and the Customer will lose ROU of that Number.</p> <p>NOTE: e.g. In the case of a domestic or family violence situation, a CSP may consider this a breach of its terms and conditions and Disconnect a Number and remove ROU from a Customer and Issue that Number to an authenticated former End User of the Listed Carriage Service, regardless of how that CSP became the Holder of the Number. Refer to Industry Guideline G660 Assisting Customers Experiencing Domestic and Family Violence.</p>
C566: 2023 Number Management – Use	4.6.2 A CSP must issue a new Number when a Customer requests a change of Number in circumstances where the

of Numbers by Customers	<p>Number has been compromised in a way that affects the Customers mental or physical safety, such as in cases of domestic or family violence, Life Threatening, or Unwelcome Communications being received via that Number.</p> <p>4.6.3 A CSP must not charge a fee or apply any form of financial penalty in providing the new Number, under clause 4.6.2.</p>
C566: 2023 Number Management – Use of Numbers by Customers	<p>4.7.2 The CSP may remove a Number from Quarantine and Issue a Recalled Number to a Customer in a shorter period [than otherwise required by the Code] if the Customer is the previous ROU Holder or authenticated former End User.</p> <p>NOTE: Examples that may constitute a reasonable request for when a CSP may remove a Number from Quarantine and Reissue to a Customer can include when:</p> <ul style="list-style-type: none"> • a CSP has recalled a Number for a breach of its terms and conditions and Issues the Number(s) to a previous End User of the Number(s), such as in a domestic or family violence situation. • (other e.g. not relevant to DFV)
C566: 2023 Number Management – Use of Numbers by Customers	<p>4.7.3 A CSP Holding a Churned or Ported Number in Quarantine following Disconnection of the Listed Carriage Service must not Issue a Churned or Ported Number to a Customer, except where the CSP is Issuing the Number to:</p> <p>(a) the former Customer;</p> <p>(b) a member of the family of the former Customer;</p> <p>(c) a former authenticated End User of that Number; or</p> <p>(d) a person taking over the business that formerly used that Number.</p> <p>NOTE: For example, a Listed Carriage Service that uses a Churned or Ported number may be Disconnected in error, or the CSP may recall a Number for a breach of its terms and conditions, such as in a domestic or family violence situation. In these cases, the CSP may remove the Number from Quarantine and Issue the Number(s) as above.</p>
C525: 2023 Handling of Life Threatening and Unwelcome Communications Industry Code	<p>4.1.3 If a B-Party Suppliers Customer believes that the Unwelcome Communications are as a result of a Domestic and Family Violence situation, a B-Party Supplier must take this information into consideration when informing their action as per clause 4.4.18.</p> <p>4.1.3 If the details identified in clause 4.1.3 include sensitive information about the B-Party Customer or others as defined in the Privacy Act, the B-Party Supplier must obtain the B-Party Customer's consent to disclose the details to the A-Party Supplier.</p>

	<p>NOTE: Refer to G660 ...for assistance in these considerations.</p> <p>4.4.13 If the B-Party Supplier advises the A-Party Supplier that the B-Party Customer's complaint relates to a Domestic and Family Violence situation, refer to clause 4.4.18.</p> <p>4.4.18 If the B-Party Supplier advises the A-Party Supplier that the Unwelcome Communications have not ceased following receipt by the A-Party Customer of a second warning letter, or in the case of a Domestic and Family Violence situation following the first warning letter, then the A-Party Supplier must Suspend, or if Suspension is not possible, Disconnect, the A-Party Customer's Carriage Service. NOTES: 1. Not all Carriage Services have the ability to be Suspended - for some this will mean an immediate Disconnection of the Carriage Service. 2. The above clause includes where the Customer is the A-Party Supplier. 3. The B-Party Customer may also be advised they can contact the Police for further action. 4. Refer to Appendix I for a suggested letter for Suspending/Disconnecting a Customer's service.</p>
C525: 2023 Handling of Life Threatening and Unwelcome Communications Industry Code	<p>Warning letter template for customers suspected of using a service to perpetrate DFV: p69, G3: Initial Warning Letter_Domestic and Family Violence.</p> <p>and</p> <p>P71, I: Suggested letter for suspension or disconnection of a service (where that service is used to perpetrate DFV)</p>
C525: 2023 Handling of Life Threatening and Unwelcome Communications Industry Code	P72, J: Suggested letter to request restoration/reconnection of a suspended or disconnected service. (Template guide for DFV situations.)
TCP Code definitions and financial hardship arrangements	<p>DFV recognised as a cause of financial hardship: Financial hardship means: ...'a Customer is unable to discharge the financial obligations.... due to.... being the victim of domestic or family violence.'</p> <p>Specifically referenced in clause 7.6.1: flexible payment options: A Supplier must, where possible, provide flexible repayment options to meet the Customer's individual circumstances, including options appropriate to the ongoing management of accounts and/or liabilities where being the victim of domestic or family violence contributed to an inability to pay the debt.</p>
3.4 Disadvantaged and vulnerable consumers	Implicitly captured under obligation 3.4.2 (A Supplier must ensure that its Sales Representatives and staff who interact with Consumers are able to interact with disadvantaged or vulnerable Consumers appropriately), particularly when

	read with the guidance note that refers CSPs to the DFV Guideline.
9.1 Obtaining consent	<p>Authorisation: The Gaining Supplier must use reasonable endeavours to ensure that the person requesting the Transfer is the Rights Of Use Holder of the Telecommunications Service to be Transferred, is an Authorised Representative of that person, or is otherwise able to authorise the Transfer under a Communications Alliance Guideline.</p> <p>An example of a Communications Alliance Guideline relevant to clause 9.1.1 b) is the Communications Alliance Assisting Customers Experiencing Domestic and Family Violence Guideline G660:2018.</p>

Submissions

TIO, ACCAN, ACMA – Protections for consumers experiencing DFV must be enforceable. This should cover staff training, process issues, protection from disconnection, and prohibiting telcos from requiring a customer to disclose information about the perpetrator as part of an enquiry.

IIA – Any requirements must be appropriate for the business. Need to avoid duplication of obligations.

Other relevant information

Communications Alliance – CA has invested considerable time and effort in reviewing and revising its Guideline on DFV, with deep and thorough engagement with industry and stakeholder groups to understand where and why problems occurred in this complex, fraught area. The revision, *G660:2023: Assisting Consumers Affected by Domestic and Family Violence*, was released in May 2023. This is a live document, with updates incorporated in June 2023 to reference two updated Codes (registered June 2023) that included changes specifically designed to manage obligations that previously conflicted with efforts to address DFV issues ([C525 Handling of Life Threatening and Unwelcome Communications Industry Code](#); and [C556 Number Management – Use of Numbers by Customers Industry Code](#)). As part of that review (and in the TCP Code Review Discussion Paper), CA flagged its intent to codify critical clauses from the new guideline through the TCP Code.

C. Draft revised proposed code provisions

Proposal - DFV-support policy and governance requirements

Introduce a requirement for policies and supporting materials to manage and respond to DFV.

Introduce a requirement to have governance arrangements to monitor compliance, including oversight by a senior executive.

Require that the CSP's policy has regard to the best-practice guidelines developed by CA on this issue.

Chapter 4 - Supporting the Consumer: DFV-support policy and governance requirements [new]

1. CSPs must have policies and supporting materials on the following, managed and overseen by a senior executive:
 - a. Domestic and Family Violence. CSPs must have regard to the Industry Guideline G660: Assisting Consumers Affected by Domestic and Family Violence, when developing their policies, which must:
 - i. clearly set out how the CSP will identify, support, manage, review and monitor DFV issues;
 - ii. emphasise safety (of the affected consumer and CSP staff);
 - iii. be trauma-informed; *(this will be clearly defined, per the DFV Guideline definition)*
 - iv. ensure that a CSP's responsibilities, communication channels, case management, support and escalation requirements (external and internal) are clear;
 - v. align with and appropriately reference mandatory consumer obligations under other instruments (e.g. the FH Standard).

Guidance: Developing a DFV Policy

It is essential that CSPs have their own, company-specific DFV policies and supporting material to ensure a safe and comprehensive DFV response that fits their size, structure and way of operating. This must be supported by appropriate training. A flexible response is necessary; there is not a 'one-size-fits-all' solution; the safe and appropriate response can vary depending on the consumer's circumstances.

Note that it is never appropriate for a CSP to require that a consumer be required to involve their alleged perpetrator in any discussion. Such actions could put lives at risk.

Proposal - protection from disconnection

Introduce a requirement to protect consumers affected by DFV from being disconnected.

Chapter 9 - Credit management, debt management and disconnection: Protecting DFV-affected consumers from disconnection [new]

1. Once a CSP becomes aware a consumer is affected by DFV, it must protect the affected person's service(s) from disconnection.

Guidance – protecting an affected person's service from disconnection

The loss of service is a major disruption for anyone, but for a DFV-affected person the consequences can be particularly significant and far-reaching.

'Protecting' from disconnection does not mean that a person's service cannot be disconnected, or that it will be maintained in perpetuity, regardless of circumstance. Rather, it means that there are additional protections in place to shield a DFV-affected customer from unwanted disconnection or interruption of service while their matter is being actively managed by the CSP.

Responses to DFV must be consumer-led; the DFV-affected person knows best how to keep themselves safe. While most DFV-affected consumers are likely to prioritise maintaining connection, there may be occasions where they choose to disconnect a service. There may also be times when it is otherwise necessary to disconnect their service to prevent or reduce possible harm, where there is evidence of fraud or other legitimate reason for disconnection.

In addition to general protections from disconnection under *financial hardship* obligations, the ability to manage a number - including initiating transfers, ports or disconnections - rests with a customer as the rights of use holder (C566 Number Management – Use of Numbers by Customers Industry Code). This means a DFV-affected end user cannot manage a number, even if they have used it for years and it is their known contact number with friends, family and support services. CSPs should have processes in place to ensure the service of a DFV-affected end user is not disconnected, interrupted, or ported while the CSP is managing a rights of use dispute.

For further guidance see G660 Assisting Consumers Affected by Domestic and Family Violence Industry Guideline.

Proposal - staff training

Introduce a requirement for staff training on identification, support, and safety considerations for consumers affected by DFV.

Staff training must:

- be at an appropriate level for the staff member role, with requirements for refresher training; and
- be included as part of high-level training to staff at induction;
- include more detailed training for frontline customer service staff, specialist training staff and staff working in areas likely to deal with DFV-related issues

(e.g. sales, credit collections, financial hardship, fraud, privacy and escalated complaints management).

Chapter 3 – Organisational Culture and Governance: Staff training – company-wide [new]

1. CSPs must provide company-wide staff training to support compliance with Code obligations, including:
 - a. Domestic and Family Violence. When developing this training, CSPs must have regard to, the Industry Guideline G660: Assisting Consumers Affected by Domestic and Family Violence. It must include:
 - i. information to help staff understand (at a high level) the nature and impact of DFV, and how to recognise common forms of DFV associated with a telecommunications service;
 - ii. Instruction on how to manage and respond to DFV-associated issues at a basic level (including how to safely escalate matters and how and where to seek support).
2. Company-wide staff training must occur:
 - a. at induction; and
 - b. as an annual refresher.

Guidance – company-wide training

Company-wide training is intended to provide staff in any role that can reasonably influence customer outcomes with a broad understanding of DFV and common presentations in the telecommunications space, thereby reducing the chance that a product or service may unintentionally be designed or presented in a way that could lead to harm to those in DFV situations. For example, understanding that certain features may be used by a DFV perpetrator to monitor their victim may lead to IT staff designing a service differently or marketing and selling it differently.

For clarity, it is not expected that those in roles with no association or influence over customer outcomes receive DFV training (office cleaners, building maintenance staff, or administrative or other roles with no influence on customer outcomes).

Chapter 3 – Organisational Culture and Governance: Staff training – specialist staff [new]

1. Company-wide training must be supplemented by appropriately tailored training for any specialist staff to suit their specific roles and responsibilities. This includes:
 - a. training on DFV for:
 - i. frontline customer service staff;
 - ii. any specialist DFV staff; and
 - iii. staff working in areas likely to deal with DFV-related issues. This includes staff in sales, credit collections, financial hardship, fraud, privacy, and escalated complaints management roles.

2. Specialist staff training must occur:
 - a. at induction to a role; and
 - b. as an annual refresher.

Chapter 4 - Supporting the Consumer: DFV-support training requirements [new]

1. When developing DFV training for specialist staff, CSPs must have regard to, the Industry Guideline G660: Assisting Consumers Affected by Domestic and Family Violence. Training must:
 - a. include information to help staff recognise and safely respond to DFV as it is likely to present to them, in their role;
 - b. include information on how to manage and safely respond to DFV-associated issues, ensuring staff are familiar with all relevant processes and procedures;
 - c. include training, guidance and support on vicarious trauma; and
 - d. ensure staff understand the specific legal and regulatory obligations relevant to their role as they relate to DFV.

Guidance – Staff training

It is strongly recommended that RSPs work with a reputable training provider with DFV expertise to develop and review DFV staff training. This will allow material to reflect both current best practice on DFV-specific issues and the CSP's company-specific needs (e.g. to support the CSP's policy and supporting materials). For further guidance see [G660 Assisting Consumers Affected by Domestic and Family Violence Industry Guideline, Chapter 5](#). A list of DFV training providers is found in Appendix 3: Training resources for RSPs.

Proposal - contract requirements

CSP's customer contracts (SFOA/T&Cs) for a service must include a provision to ensure sufficient arrangements to enable termination and disassociation of mobile number(s) from an account where the end-user has been affected by DFV from the customer.

Chapter 6 - Responsible selling: Sales, contracts and credit assessments: SFOA/T&Cs requirements [new]

1. CSPs must provide customers with a customer contract that includes:
 - a. terms and conditions that outline the ability of the CSP to disconnect a number and remove the rights of use from a customer and issue that number to an authenticated former end user of the account where the end-user has been affected by DFV;

Add Guidance Box - referencing G660 DFV Guideline and C566 Use of Numbers Code on rights of use of numbers.

Proposal - access to support and evidence

CSPs must not require evidence as a pre-requisite for assistance and support; the only exception is where legal or regulatory obligations need supporting evidence to undertake a specific transaction (e.g. a right of use (ROU) change).

If supporting materials (such as a statutory declaration or letter from a support service) are required (e.g. during a fraud investigation or when undertaking an ROU change for a service), CSPs should request only the minimum amount of information to enable them to meet their legal or regulatory obligations.

Consideration must be given to the re-traumatising impact of any request for supporting materials. There must be no requirement to provide evidence of the abuse, only the information relevant to the consumer's request.

[Chapter 7 - Customer service and support: Access to support and evidence – DFV-affected consumers \[new\]](#)

1. CSPs must not require evidence as a pre-requisite for assistance under the CSPs' DFV policy.
2. Where supporting materials are required to meet regulatory or legal obligations, CSPs must only request and retain the minimum amount of information to meet their legal or regulatory obligations.
3. A CSP must publish on its website a list of one or more external DFV support services.

Add Guidance Box - referencing trauma-informed case management, see chapter 7 in [G660 Assisting Consumers Affected by Domestic and Family Violence Industry Guideline](#).

Proposal - update references

Inclusion of cross-references and updated guidance on relevant related instruments, such as the refreshed G660 Guideline and Use of Numbers Code.

New definitions (in chapter 1) – carrying across the definitions from G660.

Recognising that terminology used to identify and describe violence and abuse between intimate partners, immediate and extended family, communal and kinship relationships, and carer and guardianship arrangements is diverse, with no consistency nationwide on its scope and use, CA proposes to include both a concise definition of the term, plus a guidance box for further information, with even more very detailed information in the referred G660.

Additionally, for absolute clarity, we propose linking 'short' definitions with the full definition in chapter one, each time they are used.

Chapter 1 – Terminology, definitions, and acronyms: Definition of 'domestic and family violence' [new]

1. Domestic and family violence refers to a wide range of behaviours by a person(s) designed to create a dependency or to isolate, monitor, dominate, or control another person.

Guidance

The term 'domestic and family' does not seek to limit the definition to the immediate family or the domestic home.

Abuse and violence occur within many personal relationships – intimate partners, immediate and extended family, communal and extended kinship relationships, and carer and guardianship arrangements.

'Violence' in this context consists of physical violence and other types of abuse that cause harm. Examples of abuse include life threatening communications, unwelcome communications, economic and financial abuse and technology-facilitated abuse.

For further guidance see [G660 Assisting Consumers Affected by Domestic and Family Violence Industry Guideline](#).

Note: Issues may be covered across a number of papers. All elements of the draft package are to be considered as a whole.

Agreed position paper: essential information during the sales process

A. Issue

Identified consumer problem

Customers purchasing telecommunications products are sometimes unclear about the costs, inclusions and terms and conditions associated with the telecommunications product they are buying because information is inconsistently provided at different points in the advertising and sales process.

Considerations for code obligation drafting

How to define customer information provision obligations about telecommunication products clearly and consistently while accommodating:

- variation in the market across services and goods sold,
- consumer choice to “pick and choose” components of an offer, and
- complexity in bundled services.

Desired outcome from TCP Code revision

Consumers get clear and consistent information about the telecommunications product offering (telecommunications goods and/or services) at each point of the customer journey:

- in publicly available, pre-sale material and communications;
- at point of sale;
- in a post-sale ‘confirmation of offer’; and
- customer contracts.

B. Background

Existing Obligations

Source	Detail
TCP Code 4.2.2(a)	<p>Content: A Supplier must ensure the CIS includes the following information:</p> <p>(a) at the beginning of the CIS, a separate, clearly identified section in which the following information is included where applicable:</p> <ul style="list-style-type: none">(i) a description of the Telecommunications Service to be provided under the Offer, including inclusions;(ii) the minimum monthly Charge payable under the Offer (where calculable);(iii) the maximum monthly Charge payable under the Offer (where calculable);(iv) the maximum Charge payable for early termination of the Offer; and

	(v) the minimum term applicable in respect of the Telecommunications Product set out in the Offer.
TCP Code 4.5.1 (a)	A Supplier must ensure its 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.
TCP Code 4.5.1 (b)	A Supplier must ensure its Sales Representatives: [...] b) clearly explain the key terms, conditions, and costs of the Telecommunications Products Consumers are purchasing.
TCP Code 4.6.1	A Supplier must provide Consumers with a Customer Contract that includes details of the entity providing the Telecommunications Service and of any associated Telecommunications Goods that are provided by the Supplier, or are required to be provided by the Customer, to enable use of the Telecommunications Service and the details of inclusions in the Telecommunications Service.
TCP Code 4.6.3	Customer specific information: A Supplier must make available information about the activation and expiry date of any current Customer Contract that the Customer has with the Supplier for a Telecommunications Product upon the Customer requesting this information from the Supplier.
TCP Code 4.6.5	Keeping records regarding Customer Contracts: A Supplier must keep records to enable a Customer to verify that the process for entering into the Customer Contract was undertaken in accordance with this Chapter.

Recommendations from submissions

Submissions have been received describing confusion experienced by customers about their contracts and the details of their telecommunications products. Summaries below:

TIO – The Code should contain clear obligations for telcos to give consumers written information showing the entire content of their agreement at the time they sign up for services, and for telcos to retain this information.

ACCC/ACMA – Critical Information Summaries need to be updated and set out in plain English, and include the total cost of the plan, any fees or charges over the life of the plan and when consumers can expect those increases.

ACCC/ACMA – Current obligations and expectations of staff, particularly those in store, need to be adjusted to ensure consumers can be properly informed of their options and what they are committing to, and treated with respect when seeking assistance.

ACCC/ACMA – During the sales process, telcos must give consumers key information that is easily understood about the terms and conditions of their products.

C. Draft revised proposed code provisions

Set out “essential information” of a telecommunications product. This information will remain consistent across the sales process, as a standard set of information about a *telecommunications product* the customer is seeking to purchase or is being offered.

- Define essential information of a telecommunications product.
- Include Code obligations to include consistently presented essential information at critical stages of the sales process.

Proposal - essential information definition

Define the term ‘essential information’, for the purpose of creating a standard set of information about a *telecommunications product* during the sales process.

[Chapter 1 - Terminology, definitions, and acronyms: Definition of ‘essential information’ \[new\]](#)

1. Essential information means a standard set of information about a telecommunications product being offered (advertised or sold). It includes:
 - a) the name of the CSP;
 - b) a description of the telecommunications service;
 - c) the minimum periodic cost (where calculable);
 - d) the minimum term of the offer;
 - e) the minimum quantifiable price of the offer;
 - f) the minimum term of any discounts or benefits (where relevant); and
 - g) information on mandatory bundled products included with the base telecommunications product (where relevant).

Guidance - Guidance box to be developed with examples.

Proposal - inclusion of term in critical stages of the sales process - 'essential information' is required to be provided

To create consistency in the information provided to consumers, the Code will use the defined term in key clauses within the new responsible selling chapters, including clauses for:

- Critical Information Summary (CIS)
- Advertising requirements
- Selling practices
 - Requirement to discuss before selling as a summary of the CIS
 - Requirement to outline difference to the base offer for special promotions

Chapter 5 - Responsible selling: Advertising and pre-sales information: The CIS, [update cl 4.2.2(a)]

1. At the beginning of the document, in a separate, clearly identified section, each CIS must outline *essential information* about the telecommunications product offered.

Chapter 5 - Responsible selling: Advertising and pre-sales information: Advertising offers, [update cl 4.1.3]

1. When advertising offers, CSPs must inform consumers about the advertised *telecommunications product* by:
 - a. capturing *essential information* in the body of the advertising;
 - b. including the terms and conditions of the offer; and
 - c. ensuring any exclusions and disclaimers used do not negate the *essential information* or terms and conditions of the offer.

Chapter 6 - Responsible selling: Sales, contracts and credit assessments: Point of Sale, [update cl 4.5.1(b)]

1. During the sales process, a CSP must ensure:
 - a. it clearly explains the *essential information* of the *telecommunications product* the consumer is purchasing;
 - b. [...]

Note: Issues may be covered across a number of papers. All elements of the draft package are to be considered as a whole.

Member Agreed Positions paper: Languages and translation services

A. Issue

Identified Consumers from consumer problem a non-English speaking (NES) background (NESB) may be unable.

to engage effectively with telcos because of language barriers. This puts them in a vulnerable situation when purchasing or seeking help in relation to a telecommunications product.

Source: Submissions to the TCP Code Review - summary [here](#).

Considerations for code obligation drafting

How to provide reasonable assistance to NES Residential and Small Business consumers/customers without imposing unreasonable/disproportional and unsustainable costs on telcos, particularly for smaller telecommunications providers.

Desired outcome from TCP Code revision

- Consumers from NESBs are provided information about translation services/tools and support to assist them in overcoming language barriers in relation to their dealings with CSPs.
- Where a CSP has advertised to the Consumer in a language other than English, key communications and support will continue to be provided free in that language by the CSP.

Note: expanded obligations for vulnerable consumers will also assist in achieving this outcome.

B. Background

Existing Obligations

Source	Detail
3.1.2	If a Supplier advertises its Telecommunications Products in another language, it must provide reasonable information to assist Consumers who do not speak English to find out where to obtain help in that advertised language in dealing with the Supplier, or allow the Consumer to appoint an Advocate to deal with the Supplier on their behalf.

Submissions

ACCC – Needs to be a requirement to assist consumers upon request, to access translated documentation or translation services. Also suggest 4.2 CIS and Chapter 7 FH include requirement to translate key docs into common languages other than English.

ACMA – note language barriers

C. Draft revised proposed code provisions

Proposal – requirement to publish information about interpreter/ translation services

A new obligation will be included in the Code to require that all CSPs provide information to consumers about translation services and support.

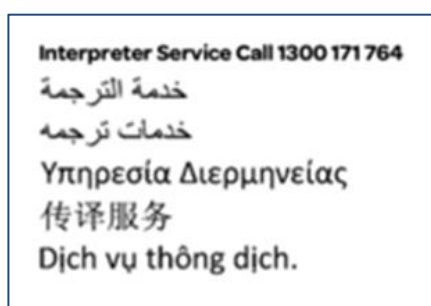
Chapter 4 - Supporting the Customer: Contact details for translation and interpreting services [new]

1. CSPs must provide at no cost to the Consumer:
 - a. the contact details of a translating and interpreting service in at least 5 'community languages'; and
 - b. contact details for the National Relay Service.
2. Contact details that meet this requirement:
 - a. are to be displayed as part of the contact information on the CSP's website;
 - b. with any Bill; and
 - c. on the CIS.

Guidance – Community Languages

CSPs are encouraged to consider information about their customer base and/or target demographic in deciding which language to include or display. Public data (e.g. from the ABS) may also assist in the identification of appropriate languages.

An example of how this information might be displayed is as per the below.



Chapter 5 - Responsible selling: Advertising and pre-sales information: The CIS, translation service [new]

1. In the body of the document, each CIS must contain the following elements:
 - a. information on translation services, displayed in at least 5 community languages;
 - b. [...];

Proposal – expand existing obligations for targeted advertising

Where a CSP has targeted advertising in a language other than English:

- essential information* must be provided in that language, and
- at no cost to the consumer, reasonable assistance must be provided in that language (e.g. support for sales, billing enquiries, credit management).

*defined term. Refer to other position paper *essential information*.

[Chapter 4 - Supporting the Consumer: Targeted advertising in a language other than English \[new\]](#)

1. Where a CSP has targeted advertising in a language other than English:
 - a. essential information and
 - b. reasonable assistancemust be provided in that language (e.g. support for sales, billing enquiries, credit management), at no cost to the consumer.

Guidance – Targeted Advertising

Targeted advertising in a language other than English means advertising that is wholly or predominantly in another language. It does not include, for example, single words or short phrases in other languages that are included for fun/affect as part of an advert. might be displayed is as per the below.

Guidance - reasonable assistance.

Pending drafting, but in concept:

'Reasonable assistance' means assisting the customer with their translation needs to help them understand the key features and obligations of the sale, billing etc. in practice, this might mean a customer service representative speaking the language, or referral to the free translation service.

Proposal – include reference to a First Nation's central resource

We would like to be able to point to a central resource for First Nation's people – for information about various First Nation languages and potentially other information that could be used for cultural awareness training, etc.

Our understanding is that such a resource is not currently available.

We have, therefore, written to the First Nations' Advisory Group (4-10-23) to ask whether they are developing (or might consider developing) such a resource. At the time of writing, no response has yet been received.

Note: Issues may be covered across a number of papers. All elements of the draft package are to be considered as a whole.

Agreed Position paper: Mobile network coverage

A. Issue

Identified consumer problem

Submissions received claimed information available about mobile network coverage and performance is unclear.

Considerations for code obligation drafting

- It is impossible for the information in a coverage map or advice provided to consumers about likely performance to be guaranteed, as performance can only be measured using the device and service at any given location.
- Coverage maps will only estimate the network experience in a particular location. The type of coverage (e.g. 3G, 4G, 5G), network capacity, device type, local environment and topography, building density, and building materials will all affect the network's performance.
- The TCP Code places obligations on CSPs, however CSPs are not necessarily also mobile network providers (MNOs). CSPs that are not MNOs cannot provide commitments to consumers around coverage and rely on coverage map information provided by the relevant MNO.

Desired outcome from TCP Code revision

- Provide consumers with consistent information about potential mobile network performance and ensure information about coverage is readily available.
- CSPs have remedies available where mobile network coverage proves not to be as indicated or reasonably expected.

B. Background

Existing Obligations

Source	Detail
TCP Code 4.1.2(j)	Network coverage: [must not] advertise or promote network coverage unless the network coverage is generally available to Consumers in the claimed coverage area.
TCP Code 4.1.2(n)	Basis of claims: [must not] make claims in Advertising in relation to broadband speeds, network coverage and other performance characteristics of a Telecommunications Product unless the Supplier is able to substantiate such claims.

TCP Code 4.3.1 (g)	Mobile coverage: [must make available] the network coverage in Australia for the Telecommunications Services, which may include a map or diagram of the mobile coverage.
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Submissions

- The obligation to "make information available to consumers about 'the network coverage in Australia' for their mobile services" is vague and may not operate consistently to provide accurate and useful coverage info to consumers.
- Under the current industry practice, each telco provides coverage info in its preferred format, and different telcos may use different descriptors for coverage levels. This makes it difficult for consumers to compare coverage information supplied by different telcos accurately.

Context on current maps

AMTA's [Understanding coverage maps](#) resource explains how mobile network coverage works and outlines the agreement made by Australia's MNOs to align three levels of coverage and the terminology for these levels so that coverage maps are comparable.

AMTA members and MNOs Optus, Telstra and Vodafone have agreed to use this common terminology to describe the three standard levels of coverage to customers:

- Level 1 – Indoor coverage
- Level 2 – Outdoor
- Level 3 – External antenna

The implementation of this agreed approach is evidenced by the coverage maps provided by the MNOs on their respective websites:

- Telstra [coverage map](#)
- Optus [coverage map](#)
- Vodafone [coverage map](#)

C. Draft revised proposal code provisions

Proposal - *Provide guidance on coverage and update 4.3.1*

The Code will include a guidance note on coverage that explains the existing AMTA¹ agreement outlined above and directs CSPs to the AMTA coverage map resource so that CSPs are required to:

¹ pending AMTA's agreement.

- be specific about which mobile network their mobile service products are associated with; and
- provide consumers with the coverage map information relevant to their offer, in the form of a map or a diagram.

Chapter 5 - Responsible selling: Advertising and pre-sales information:
Advertising [update cl 4.1.2]

1. When advertising *telecommunications products*, CSPs must ensure:
 - a. If claiming a network coverage area in Australia, that the network coverage is generally available for consumers in the claimed coverage area;
 - b. claims regarding broadband speeds, network coverage and other performance characteristics of a *telecommunications product* are fair and accurate;
 - c. for mobile network coverage, display the underlying wholesale provider.

Chapter 5 - Responsible selling: Advertising and pre-sales information:
Publishing information about telecommunications products [update cl 4.3.1]

1. Information about *telecommunications products* currently offered must be made publicly available by CSPs without charge, including:
 - a. [...]
 - b. network coverage in Australia for *telecommunications services*, which will include a map or diagram of the network coverage;
 - c. for mobile network coverage, display the underlying wholesale provider;
 - d. [...]

<p>Guidance - Guidance box to be developed on coverage maps, details above.</p>
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Proposal - Sales process should include information about expected mobile coverage

As part of the updates to the responsible selling clauses, clarity on an obligation during the sale of a mobile service to:

- check the critical locations for usage of the service (such as home and work); or
- direct consumers to the CSP's coverage map to review the likely performance of the service at this location.

See also 'Issues Paper – Selling Practices' on information provided to consumers before sale.

Proposal - *Remedies in relation to mobile network coverage*

Where a consumer is signed to an ongoing contract for a mobile service, and mobile network coverage does not allow for adequate service usage as agreed at point of sale, CSPs will be required to have processes in place to enable the consumer to exit their contract with no early exit fees.

The CSP will also be required to have processes for the management of any associated bundled telecommunications products where a service is cancelled due to coverage issues. This obligation must be flexible with recommended remedies, to prevent an unnecessary regulatory burden for smaller CSPs. Recommended remedies may include options to return an associated bundled telecommunications good, pay any outstanding cost in full, support financial hardship issues for any balance owed, or ways to maintain discounts for bundled telecommunications service if the base service is disconnected.

A new clause will be developed and included in the new Sales chapter.

Note: Issues may be covered across a number of papers. All elements of the draft package are to be considered as a whole.

Agreed Position paper: Payment methods

A. Issue

Identified consumer problem

Consumers would like flexibility and control over when and how they pay for their telecommunication services.

Some consumers are unclear about how direct payments work, particularly where the direct debit is linked to 'payments over time' for telecommunication products purchased as part of a bundled arrangement.

Some consumers would like to be able to pay for their telecommunications services by means other than direct debit.

Source: Submissions to the TCP Code Review - summary [here](#).

Considerations for code obligation drafting

How to ensure that:

- any proposed changes to the Code in relation to payment methods are consistent with the expectations set out in the *Telecommunications Act* requirements to properly assess the cost-benefit of actions; in this instance, the financial or administrative burdens of requiring that all CSPs offer more than one payment option.
- residential consumers:
 - are guaranteed a minimum level of user-friendly flexibility and control over how and when they pay for their telecommunication services, regardless of provider,
 - have the appropriate information, before making a purchase, to enable them to choose a telecommunications product that best balances their needs and wants in relation to:
 - payment options available
 - price, inclusions, convenience, the customer support options available, etc.
 - have information about their obligations, terms and conditions, including in relation to payment options, before making a purchase,
 - have a competitive choice of telecommunications products,
 - are guaranteed fair process and remedies should direct debits be incorrectly debited,
- CSPs:
 - appropriately consider the needs of vulnerable consumers,
 - can continue to compete on all aspects of service provision, including price, customer service, payment methods and convenience. This includes, for example, low-cost, 'no frills' type services, through to all-bells-and-whistles, higher-cost offerings (and everything in between),
 - have the flexibility to provide options that suit their target market and do not have to unreasonably invest in payment mechanisms that their customers do not want or need.

Desired outcome from TCP Code revision

Residential consumers can make informed decisions about the telecommunications products that best balances their needs and wants in relation to price, inclusions, convenience, available customer support options and payment options available.

There is a range of competitive offerings in the market, including a choice of payment options.

Costs for CSPs and consumers do not rise because of inflexible rules that are inappropriate for the target market.

CSP and consumer exposure and risk of debt is minimised.

B. Background, submissions and further context

Existing Obligations

Source	Detail
TCP Code, cl 5.7.1	<p>5.7.1 Direct Debit payment: A Supplier offering Direct Debit as a payment facility for a Telecommunications Service must comply with the Customer's authorisation and:</p> <ul style="list-style-type: none">a) must ensure that the Customer, or former Customer, can access all Billing information on request and before the Direct Debit occurs;b) must ensure that the Customer, or former Customer, can, on request, verify that its Direct Debit arrangements are in accordance with their authorisation;c) except where clause 5.2.1 b) applies or where otherwise agreed between the Supplier and the Customer, must allow the Customer, or former Customer, not less than 10 Working Days to check the Bill, or if no Bill is required all applicable Charges, before the associated Direct Debit transaction occurs;d) subject to compliance with clause 5.4.1, must provide details of a Direct Debit transaction to the Customer, or former Customer's nominated financial institution in a timely manner, to ensure the transaction to take place as close as possible to the due date for payment;e) must ensure that a Customer, or former Customer, can readily cancel a Direct Debit authorisation by providing a simple mechanism (such as email or faxed request to do so);f) must cancel a Direct Debit authorisation within 3 Working Days of receipt of the request detailed in clause e) above; andg) g) if the amount of a Direct Debit is incorrect, must either ensure that the Customer, or former Customer, receives a full and timely refund of any excess amount paid or undertake other appropriate action agreed with the Customer or former Customer.

TCP Code, cl 5.6.1	5.6.1 No Charges for Bill payment: The Supplier must offer at least one method of payment for its Telecommunications Products that is free of Charges imposed by the Supplier.
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Further context

The current TCP Code (Billing Chapter) sets a minimum requirement to offer at least one method of payment that is free. This free method is often direct debit.

While direct debit payments for subscription-style services provide a 'set and forget' solution that suits many customers, it may present the following challenges:

- the timing of direct debit payments may not align to the customer's income cycle, which may cause financial stress,
- should a customer miss a payment (for example, if they do not have sufficient cleared funds in their account), re-try debit attempts also fail, and the customer does not contact their CSP to pay, their service may be disconnected.
- customers with payment-over-time arrangements¹ may forget, or not understand, that although their telecommunications service contract is not binding, if they choose to change the service before paying off the balance for their device, the balance of monies owed becomes due immediately. If the customer has not budgeted accordingly, this may put them in a position of financial hardship. Or, if there are insufficient funds in their account, this may cause them to enter into debt management processes.

Submissions, feedback and discussions

ACMA – The ACMA outlined its expectations around payment choice as follows:

- ACMA Position Paper, July 2023:
 - ACMA's **expectation 4 – Payment – choice of method, clarity and accuracy**: "Consumers expect to have a choice about how they pay their bills, not be forced to pay by direct debit or auto-payments that may be outside their income cycles, and that their bills and invoices will be accurate, and the charges easily understood."

¹ Services may be bundled with a device that is paid off in a 'payment over time' arrangement. For customers not wanting or able to pay for a device outright, this provides an alternative (interest-free) and generally cheaper means for consumers to purchase a device than a personal loan, credit card or Buy Now Pay Later type of arrangement

The ACMA suggests that appropriate safeguards gaps would be met by the provision of flexibility with payment methods, "such as a consumer being able to nominate or change the date of payment".

The ACMA also suggests in this paper that there need to be more rules around how the provider communicates with a customer when a direct debit fails, with flexibility in allowing payment and steps to be taken before cancelling a service.

Letter to CA, ACMA Chair, 5 July

- raised 'payment methods' as an 'area of concern' that needs to be addressed by the TCP Code.

ACCC – The ACCC raised concerns that there should be more than one 'fee free' payment options. It quotes ACCAN and Public Information Advocacy Centre research which found that:

- consumers experiencing vulnerability may be unable to utilise the fee-free option. For example, ACCAN and PIAC found that 28% of First Nations consumers, 22% of consumers living with disability, and 15% of low-income consumers do not find direct debit to be an easy method for paying their telecommunications bills. In addition, older Australians and unemployed consumers are more likely to have never used direct debit services.
- consumers experiencing considerable financial hardship may be concerned with the timing of direct debit payments, which can lead to late fees or dishonour fees.

ACCAN – Raise issues with only one fee-free payment method being available, with consumers using other bill payment methods being charged to do so, with fees.²

TIO – Raise issues associated with direct debit in relation to cases where consumers are experiencing payment difficulties. It cites an example of a consumer being unable to accommodate his request for delayed payment/ financial assistance because his services were on a billing system that only accepts automatic payments.

Some consumers have complained that they can only use direct debit or equivalent, which are problematic because the telco's direct debit dates do not align with their income cycle; they do not understand or trust automatic payment

² ACCAN 2018, *Telecommunications Consumer Protections Code Submission*, p.9 – p.10, referenced in ACCAN 2023, *ACCAN Response to Telecommunications Consumer Protections (TCP) Code Review 2024*.

methods; or they want the flexibility to pay in smaller, more frequent amounts to help them budget.

Cites a case of a consumer being disconnected after one missed automatic payment and other examples in relation to process problems with direct debit (e.g. mistakes)

Raises concern that consumers on automatic payments plans are not guaranteed accurate information about what they will pay for their services and how their charges are calculated *before* any payment is made.

Recommends that the Code:

- be more prescriptive about assistance options that telcos must offer to consumers 'experiencing or anticipating payment difficulty',
- should explicitly require that mandatory assistance options be available to all of a telco's customers, irrespective of the telco's system limitations (e.g. those imposed by the billing system)
- require, at a minimum, that the Code require telcos to offer options for payment assistance: paying off debt in regular manageable instalments; option to reduce the consumer's ongoing charges for an appropriate period of times; an option for the consumer to cancel services or transfer them to less expensive plans (including prepaid), without payment cancellation fees.
- apply notice requirements for barring, suspension and disconnection of services following missed automatic payments.
- suggests that to ensure accurate information on payment before a payment is due, an itemised invoice/bill be issued.
- mandates prescribed payment methods to include:
 - options that are not based on direct debit, to empower consumers to prevent unauthorised or unexpected payments if they experience or suspect problems with their telco's payment system.
 - Centrepay to those who use and request it.

RC discussions and DC comments

At the RC, the ACCC and ACCAN indicated support for the TIO's proposal that it be mandated that there be another free payment method offered, other than direct debit, for all CSPs.

The DC agrees that:

- consumers in vulnerable situations should be protected. It notes that issues associated with financial hardship will be subject to the Financial Hardship Standard that is currently being drafted.
- consumers need to have clear information on what they are buying, including T&Cs of service,

- consumers have information on payments due,
- there should be notice requirements to consumers following missed automatic payments,
- there should be choice offered in the market to allow consumers to pick a telecommunication service that reasonably balances their wants and needs, including their payment preferences.

The DC notes that:

- Payment systems are subject to regulatory approval by the Reserve Bank and also regulated by the ACCC. The [ACCC advises](#) that Businesses can choose which payment types they accept. It is legal for a business to specify the terms and conditions that they will supply goods and services. This includes whether they will accept cash payment. **However,** consumers must be made aware of these terms and conditions before they make a purchase. Businesses need to be clear and upfront about the types of payments they accept as well as the total minimum price payable for the goods and services.
- A requirement to mandate more than one payment method for all telecommunications products, would require considerable investment in systems and processes. It may also result in a number of service offerings being withdrawn from market, or smaller players exiting the market, reducing competition. Costs would be passed on to consumers. Imposing a requirement that all service providers offer a choice of payment systems (and the associated financial and administrative burdens), may be acting against the consumer's best interest.
- The approach take must be proportional to the potential consumer harm is designed to address. It must also meet the *Telecommunications Act* expectations in relation to rules and regulations serving the public interest, including in the efficient, equitable and ecologically sustainable supply of carriage services...in a manner that reflects the legitimate concerns of the Australian community. These issues are generally assessed through thorough consultation and cost-benefit analysis, which has not been attempted in relation to the requirement to mandate a prescriptive choice of payment systems across all telecommunications services.
- However, the DC suggest that the following approach to addressing the issues raised, when read together as a complete package, and combined with the protections proposed in the Financial Hardship Standard, will address the issues raised.

C. Draft revised proposed code provisions

Proposal – new requirements designed to require that payment method options are clearly disclosed

New requirements will be introduced to make it easy for consumers to quickly identify whether a telecommunications service includes a payment option to suit their preference.

Note: there will also be provisions in the Code to ensure consumers are informed, before sale, of the terms and conditions of the offering, including payment terms and conditions and relevant information about associated bundled products.

[Chapter 5 - Responsible selling: Advertising and pre-sales information: The CIS \[new clause\]](#)

1. In the body of the document, each CIS must contain the following elements:
 - a. details of payment options;
 - b. [...];

CSPs will also be required to provide information about any fees associated with a particular payment method; with this information to be made available via a link from the CIS.

Proposal – new requirements to require flexibility around payment methods

New requirements will be introduced to guarantee a minimum level of flexibility, at no cost, for residential customers around payments.

[Chapter 8 - Billing and payments: Flexible payments \(new clause\)](#)

1. A CSP must offer reasonable payment flexibility at no cost to customers. This means that:
 - a. where direct debit is the only payment option offered, it must be free and provide a minimum level of flexibility and control to the customer, by allowing a customer to nominate a date for direct debit and at least one of the following:
 - i. choose a payment frequency option (e.g. fortnightly or monthly), or
 - ii. reasonably defer a payment, without penalty.
 - b. where direct debit flexibility in (a) is not offered, that at least two free payment options must be offered, where at least one of those payment options is not direct debit or equivalent.

Guidance: free payment option (no cost).

This means that there are no charges imposed by the CSP for using this payment method.

Guidance: reasonably defer a payment.

Reasonably defer a payment means that the customer is able to defer their payment for a time that reasonably allows them to move funds or make similar arrangements; (to be aligned with the final version of the Financial Hardship Standard)

It would be reasonable for a CSP to accommodate deferred payments or other change to the billing arrangement more than once, but it is not expected that a customer be able to defer payments regularly as this would indicate financial hardship and under the Financial Hardship Standard, the CSP would need to engage with that customer in relation to financial hardship.

(Note also the new proposed requirement below around alternative payment methods where a direct debit fails.)

Proposal – *update and simplify requirements relating to (all) direct debit payments*

The protections currently in cl. 5.7.1 will be updated and the language simplified. (see sample drafting below)

Proposal – *new/extended requirements around notifications to remind consumers of impending direct debits.*

A new clause will be added to the requirements currently at cl. 5.7.1 to require that CSPs remind customers of upcoming direct debit withdrawals 3-4 days prior to the funds being debited.

This would allow the customer the opportunity to ensure they have sufficient cleared funds for the payment, or to make other arrangements if required (i.e. deferring payment; contacting their CSP to request financial hardship assistance, etc). It would be in addition to the current requirements at 5.7.1.

Note: It is proposed that the clause would be drafted to allow CSPs flexibility around the mechanism method, and that customers would be permitted to opt-out of notifications.

Sample drafting (note, these may be split into separate clauses and restructured to include the new proposals)

Chapter 8 – Billing and payments: Direct debit payments (updated and extended cl. 5.7.1)

1. A CSP offering direct debit as a payment facility for a Telecommunications Service must not charge a fee for the option of direct debit and:
 - a. must ensure they have the Customer's authorisation;
 - b. must ensure that the Customer can access charging information before the Direct Debit occurs (updated; new guidance);
 - c. must ensure that the Customer can readily verify that its Direct Debit arrangements are in accordance with their authorisation;

- d. [new] must provide a reminder notice in sufficient time for the Customer to make alternative arrangements for payment action if required;
- e. must ensure that a Customer, can readily cancel a direct debit authorisation through a simple mechanism; and
- f. must cancel the customer's Direct Debit within 3 Working Days of receipt of the Customer's cancellation request.

Guidance: accessing charging information

For example, CSPs can make this available through an app, online, or automated balance phone service

Guidance: reminder notifications

Sufficient time will vary depending on the direct debit arrangement; debits to a credit card can generally be adjusted more quickly than those direct from a bank account. The latter may require as much as 5 working days' notice.

Notification mechanism is not prescribed; CSPs have the flexibility to decide how to appropriately reach their customers. Additionally, CSPs may choose to allow customers to opt-out of notifications if they choose

Proposal – *new requirement relating to failed Direct Debits*

A new requirement will be included in the Code around failed Direct Debits.

Chapter 8 – Billing and payments: Failed direct debit payments (new clause)

1. CSPs must:
 - a. promptly notify a customer if a direct debit fails, and
 - b. provide reasonable opportunity (3-4 working days) for the Customer to make funds to be available, change debit arrangements or make a payment by another method (without charge);
2. Where a direct debit fails the customer must also be provided with information about financial hardship, including how to contact the CSP for assistance.

Proposal – *remedies for direct debit errors*

Remedies in relation to payments will remain (5.7.1(g)), but with clearer guidance about 'appropriate action'.

Chapter 8 – Billing and payments: Remedies for direct debit errors (updated 5.7.1(g))

1. If the amount of a Direct Debit is incorrect, the CSP must inform the customer of their right to a refund and provide a full and timely refund of any excess amount paid; unless the customer nominates a preference for another appropriate action as a remedy in place of a refund.

Guidance: other appropriate action as agreed with the customer.

The customer has a right to a refund so other alternatives must not be presented as remedies as such, but only as alternatives to a refund.

Alternatives, that a customer might prefer could include a credit applied to the account; extra data; gift card.

CSP should align the timeframe for processing a refund with the timeline for resolving a complaint under the Complaints Handling Standard i.e. 15 working days, noting that there will also be some dependency on bank processing times.

Note: Issues may be covered across a number of papers. All elements of the draft package are to be considered as a whole.

Agreed Position Paper: Responsible Selling Policies

A. Issue

Identified consumer problem

Consumer safeguards at point of sale can be enhanced to protect consumers and prevent inappropriate sales of telecommunications products.

Information provided to consumers at point of sale does not always include all the key information relating to the product being sold, including the terms and conditions or lower-cost options.

Further consumer safeguards can be put in place to disincentivise instances of mis-selling, by promoting responsible selling practises, responsible incentive structures, and remedies for consumers.

Desired outcome from TCP Code revision

Consumers receive all essential information at point of sale and telco staff can identify and discuss appropriate products for consumers' needs.

The sale of inappropriate telecommunications products is reduced by strengthening responsible selling obligations, training for representatives and responsible incentive structures.

B. Background

Existing Obligations

Source	Detail
TCP Code 4.5.1 (a)	A Supplier must ensure its 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.
TCP Code 4.5.1 (b)	A Supplier must ensure its Sales Representatives: [...] b) clearly explain the key terms, conditions, and costs of the Telecommunications Products Consumers are purchasing.
TCP Code 4.5.1 (c)	Training for Sales Representatives: ensure its Sales Representatives are appropriately trained to promote and sell in a fair, transparent, responsible and accurate manner;
TCP Code 4.5.1 (d)	Ongoing monitoring: ensure the conduct of its Sales Representatives is monitored periodically to see how they interact with Consumers, and take steps to address emerging or systemic deficiencies in the sales conduct;
TCP Code 4.5.1 (f)	Consumer understanding: ensure its Sales Representatives are appropriately trained and have appropriate tools and aids to

	assist Consumers to understand the Telecommunications Products they are purchasing.
TCP Code 4.5.2	Meeting identified Consumer needs: If a Consumer identifies a particular need to a Supplier, the Supplier must indicate if it has an Offer that may suit the Consumer's identified need and if the Supplier does indicate a particular Offer that may suit the Consumer's identified need, the Supplier must provide the Consumer with information about the particular Offer, to allow the Consumer to assess the suitability of that Offer against that need.
TCP Code 4.5.2 (a)	Training of Sales Representatives: ensure Sales Representatives are appropriately trained so they can be aware of how to understand Consumer needs and advise Consumers on the Supplier's suitable Offers;
TCP Code 4.5.2 (b)	Information: provide standard information about Offers which can meet needs commonly expressed by Consumers of the Supplier's Telecommunications Products;
TCP Code 4.5.2 (d)	Different needs: assist Consumers to find out where to access information about Telecommunication Products which may suit specific needs, such as the disclosed needs of Consumers with a disability.

Submissions to the TCP Code Review

Submissions have outlined the following key consumer concerns during the sales process:

TIO – Lack of clear obligations in the current code to offer specific remedies to consumers, means telcos may misinterpret what an appropriate remedy is for the consumers' particular circumstances.

ACCAN - ACCAN continues to receive reports of mis-selling from our members and stakeholders.¹ Inherent to this problem are the underlying targets and incentives given to sales representatives and the way they are trained to sell products. ACCAN frequently hears cases of sales representatives using pushy sales tactics to upsell products.²

ACCC – There is a need for more consumer safeguards at point of sale to protect vulnerable consumers who are less capable of making sound decisions.

¹ ACCAN 2023, *ACCAN Response to Telecommunications Consumer Protections (TCP) Code Review 2024*, p.7.

² ACCAN 2018, *Telecommunications Consumer Protections Code Submission*, p.18, referenced in ACCAN 2023, *ACCAN Response to Telecommunications Consumer Protections (TCP) Code Review 2024*.

ACCC, ACMA – Critical information contained in the terms and conditions of plans and contracts is not being fully explained to consumers, which can lead to financial hardship. Complexity of terms and conditions make it hard for consumers to understand their contract.

Consumer Action Law Centre – Unsolicited phone sales (cold calling) of inappropriate products are an enduring cause of confusion and financial hardship, particularly amongst vulnerable consumers.³

Recommendations from submissions

TIO – Include specific remedies in Code where a consumer is induced to buy a telco product by incorrect or misleading info from the telco.

ACCAN - Sales incentives should promote responsible and ethical selling, that actively takes account of the customer's requirements. Targets and incentives for staff must be aligned with long-term consumer outcomes, rather than short-term sales.⁴

ACCC – Need ethical selling practices and staff incentives that are aligned with the long-term interests of the customer and improved information at point of sale.

ACMA – Current obligations and expectations of staff, particularly those in store, need to be adjusted to ensure consumers can be properly informed of their options and what they are committing to, and treated with respect when seeking assistance.

Consumer Action Law Centre – Unsolicited sale of telecommunications products and services should be prohibited by TCP Code, and in order for a contract to commence, a consumer must opt in at the conclusion of the cooling off period provided by the Australian Consumer Law.⁵

³ Consumer Action Law Centre 2018, *Telecommunications Consumer Protections Code Submission*, p.4, referenced in ACCAN's 2023, *ACCAN Response to Telecommunication Consumer Protections Code Review 2024*.

⁴ ACCAN 2018, *Telecommunications Consumer Protections Code Submission*, p.9 – p.10, referenced in ACCAN 2023, *ACCAN Response to Telecommunications Consumer Protections (TCP) Code Review 2024*.

⁵ *Ibid*, p.9.

Considerations for code drafting

- Obligations around responsible selling and misleading sales conduct already exist in ACL – drafting should ensure that there is no duplication of obligations in the revised code
- Consider ability of smaller CSPs to meet obligations relating to provision of information in various languages, particularly in the Critical Information Summary (CIS)
Consideration of whether the TCP Code is the appropriate instrument to restrict certain sales practices.

C. Draft revised proposed code provisions

Keep, strengthen, and add to existing protections for mis-selling and sales conduct; include new requirements for vulnerable consumers; extend and strengthen requirements in relation to information provision.

Proposal – *Provision of information at point of sale*

The responsible approach to selling requirements will be updated to require a standardised set of 'essential information' to be shared with the customer at the point of sale, removing ambiguity about what should be considered the "key terms, conditions, and costs" to be explained to consumers.

It will also match the details contained within the CIS. This change aims to address concerns related to consumers not receiving adequate information at point of sale, or not having key information explained to them prior to purchase.

Note: See 'Position Paper - Essential Information' for the definition of essential information.

Proposal – *updated/clearer information-provision requirements*

New and updated clauses (and guidance) will make expectations and rules clearer.

[Chapter 5 - Responsible selling: Advertising and pre-sales information: The CIS, \[update current cl 4.2.2\(a\)\]](#)

1. At the beginning of the document, in a separate, clearly identified section, each CIS must outline *essential information* about the telecommunications product offered.

[Chapter 5 - Responsible selling: Advertising and pre-sales information: Advertising offers, \[update current cl 4.1.3\]](#)

1. When advertising offers, CSPs must inform consumers about the advertised *telecommunications product* by:
 - a. capturing *essential information* in the body of the advertising;
 - b. including the terms and conditions of the offer; and
 - c. ensuring any exclusions and disclaimers used do not negate the *essential information* or terms and conditions of the offer.

Chapter 6 - Responsible selling: Sales, contracts and credit assessments: Point of Sale, [update current cl 4.5.1(b)]

1. During the sales process, a CSP must ensure:
 - a. [...]
 - b. it clearly explains the *essential information* of the *telecommunications product* the consumer is purchasing;

Chapter 6 - Responsible selling: Sales, contracts and credit assessments: Order summary, [new clause]

1. CSPs must provide a customer with an *order summary* after entering into a customer contract with the consumer.
2. The order summary must contain:
 - a. the name of the CSP;
 - b. the contact details of the CSP;
 - c. the expiry date of the fixed term contract (if applicable);
 - d. information about any special promotions, including:
 - i. discounts or bonus entitlements; and
 - ii. the expiry date of the special promotion; and
 - e. a link to the CIS.

Proposal – *contract records*

Requirements for keeping records of the customer contract will be updated to include the concept 'essential information'. This information makes up the entirety of the customer contract.

Chapter 6 - Responsible selling: Sales, contracts and credit assessments: Customer contract, [update cl 4.6.5]

1. A CSP must keep the following records regarding the customer contract:
 - a. the order summary;
 - b. the CIS; and
 - c. Standard Form of Agreement (or equivalent).

Proposal – *Remedies for mis-selling*

The responsible approach to selling requirements will require that a CSP take steps to address instances of mis-selling by providing a customer with a remedy that is tailored to and is appropriate in the circumstances in the customer.

Chapter 6 - Responsible selling: Sales, contracts and credit assessments: Selling Policies, [new clause]

1. A CSP must take reasonable steps to correct instances of mis-selling by providing a remedy that is tailored to and is appropriate in the circumstances for the customer, including by offering at least one of the following remedies to the affected customer:
 - a. returning the customer to the position they were in prior to the sale;
or
 - b. terminating a customer's contract without charge; or

- c. enacting a change of contract without penalty to the customer; or
 - d. any other action or remedy agreed with the customer.
- 2. Where a customer has relied on inaccurate information provided by the CSP about an offer to make a purchasing decision, the CSP must provide the customer with
 - a. corrected information about the offer; and
 - b. a remedy that is tailored to and appropriate in the circumstances for that customer.

Guidance: tailored remedies

A tailored remedy should consider, where appropriate, the customer's individual circumstances, the harm experienced by the customer as a result of the mis-selling, and the customer's preferred remedy, where reasonable.

Proposal – Monitoring complaints about sales conduct

The responsible approach to selling requirements relating to complaints monitoring will be refreshed to strengthen requirements to proactively identify and act when mis-selling occurs.

Chapter 6 - Responsible selling: Sales, contracts and credit assessments: Selling Policies, [new clause]

- 1. A CSP must:
 - a. monitor complaints to identify possible mis-selling; and
 - b. have policies and supporting materials to address mis-selling and sales conduct issues.

Proposal - Selling policies for sales staff

Requirements on CSPs will be introduced for commission or incentive structures to promote responsible selling, including a recommendation to claw back staff commissions from inappropriate sales. For example, responsible selling incentives may be based on customer satisfaction surveys rather than number of sales/items sold.

Chapter 6 - Responsible selling: Sales, contracts and credit assessments: Responsible incentive structures [new]

- 1. A CSP's incentive structures for its representatives must promote responsible selling practices.
- 2. A CSP's incentive structures must not reward representatives who do not comply with responsible selling practices in Section 6.1 of this Code.

Guidance: incentive structures

CSPs should consider how commission and incentive structures provided for its representatives can promote responsible, ethical selling and disincentivise mis-selling. Recommendations include:

- 'Claw back' of a representative's commission where sales have been identified as inappropriate or irresponsible

- Incentives may be based on customer satisfaction rather than volume of sales
- A CSP should have consideration of incentives in relation to volume, and how pressure to sell enough to meet the next 'tier' or 'quota' of commission payment can incentivise irresponsible selling above what a customer needs.

Proposal – Sales to vulnerable customers

New clause allowing customers to cancel services purchased, where there is reasonable proof of vulnerability that impacted their decision-making at the time of sale.

Chapter 6 - Responsible selling: Sales, contracts and credit assessments: Selling Policies, [new clause]

1. Where a customer has purchased a telecommunications product while affected by a vulnerability that impacted their decision-making at the point of sale, a CSP must allow cancellation of the purchased telecommunications product without charge, where reasonable proof of vulnerability has been provided.

Guidance: sales to vulnerable customers

This clause does not require that the CSP request proof of vulnerability affecting the customer, rather, this is at the discretion of the CSP. Evidence may be sighted by the CSP, or retained in circumstances where the evidence is needed.

Example 1 – a customer affected by a psychological episode purchases a product on a CSP's website. It becomes apparent to the CSP that the customer does not need the product only after a family member of the affected customer contacts the CSP. The CSP may require evidence that the customer was affected by a vulnerability that impacted their decision making at the point of sale, and once provided, can sight the evidence given, and issue a cancellation and refund.

Example 2 – a customer becomes known to the CSP for repeatedly purchasing multiple products, then cancelling them. The CSP becomes aware that the customer in question has suffered from a brain injury and does not recall purchasing the products repeatedly. In this scenario, it is advisable for the CSP to keep evidentiary materials on file to ensure the customer can be protected from making future purchases while affected.

Example documentation:

- Statutory declaration
- Medical letter
- Letter from a support service used by the customer

Note: Issues may be covered across a number of papers. All elements of the draft package are to be considered as a whole.

Agreed Position paper: Vulnerable Customers

A. Issue

The TCP Code does not provide sufficient protections for consumers in vulnerable circumstances. The only obligation in the current TCP Code is to 'have regard to' the ACCC's *Consumer Vulnerability – A Business Guide to the ACL* (cl 3.4.1). There are no specific rules obliging CSPs to:

- treat all consumers fairly and reasonably, so they are less likely to experience vulnerability and harm when accessing and maintaining communications services,
- have policies and processes in place to assist consumers in vulnerable circumstances to gain and maintain access to telecommunications services that meet their needs and circumstances
- identify and respond to consumers in vulnerable circumstances.
- consider support for consumers experiencing vulnerability in business planning processes.

(source: AMCA SOE and Position Paper.)

Identified consumer problems

Customers in vulnerable circumstances may be disadvantaged in their interactions with their telco. For example, they may:

- face language barriers and technical literacy and other issues that may make it challenging for them to:
 - choose the right product and service for their needs and budget
 - contact their service provider for assistance and receive appropriate assistance in a timely manner
 - understand their obligations
 - understand how to get help or what help is available
 - be able to access help
 - maintain connection
- be struggling with debt or financial hardship.

This can lead to poor consumer outcomes, including frustration, financial stress, and an inability to stay connected in times of difficulty.

Considerations for code obligation drafting

How to enhance protections for consumers in vulnerable circumstances with clear, specific, achievable and reasonable obligations for CSPs that:

- acknowledge the role CSPs play in assisting customers in vulnerable circumstances to reasonably
 - access telco products and services that meet their needs and circumstances,
 - maintain connection to those services, and

- require CSPs to make reasonable efforts to identify (including through mechanisms that enable and encourage customers to self-identify) and assist consumers who are, or may be, in vulnerable circumstances (temporary or longer-term),
- Appropriately balance/recognise:
 - that there is a difference between 'needs' and 'wants',
 - that both parties have roles and responsibilities (e.g. honest disclosure of relevant information on both side),
 - that even with the best intentions, it is not possible for CSPs to identify consumers in vulnerable circumstances (particularly noting that consumers may not themselves recognise or acknowledge issues),
 - the different size and structure of different CSPs, and the variation of in product and service offerings (there will be no 'one-size-fits-all' way to manage requirements),
 - there may be times when it is appropriate to act in a particular way to reduce the risk of serious consumer detriment (e.g. it may be appropriate to suspend a service urgently in cases of suspected fraud, or when consumer is at risk of accruing substantial further debt)
 - that CSPs are businesses and have a right to recover monies legitimately owed (though we note that these are often written-off for consumers in difficult circumstances).
- Align with the FH Standard.
- Align with anticipated new ACCC protections (Unfair Trading Practices).

Desired outcome from TCP Code revision

Fair and reasonable treatment of consumers by CSPs, so that they are less likely to experience vulnerability and harm when accessing telecommunications services. Better identification of customers who are or may be experiencing vulnerable circumstances.

Appropriate assistance and support for customers experiencing vulnerability, from knowledgeable (well trained) staff.

B. Background

Source	Detail
C628/2019 Telecommunications Consumer Protections Code	Clause 3.4.1, 2019
G660:2018 Assisting Customers Experiencing Domestic and Family Violence	
ACMA – Consumer vulnerability: expectations for the telecommunications industry (May 2022)	
ACMA – What consumers want – Consumer expectations for telecommunications safeguards (July 2023)	Expectation 6: Fair treatment of consumers in vulnerable circumstances

Submissions

ACMA Position Paper:

- The rules for vulnerable and disadvantaged customers in the TCP Code are not well-defined and are hard to apply and enforce because the protections are too general and subjective, and do not provide sufficient protection to this group of customers.
- The language in the TCP Code regarding consumers experiencing vulnerability is unclear. For example, the main provision addressing vulnerable and disadvantaged customers (clause 3.4.1) only requires telcos to 'have regard to' an ACCC best practice compliance guide. This is an ambiguous term.
- ACMA Statement of Expectations - as quoted above.

C. Draft revised proposed code provisions

Proposal – *enhanced prominence and focus on meeting the needs of consumers in vulnerable circumstances, including through a new 'supporting the consumer' (or similar title) chapter.*

The needs of those in vulnerable circumstances will be highlighted throughout the Code, as it is relevant to most chapters (e.g. advertising, sales, customers service and support, payments, debt management and disconnection), but would also be a key focus of an early chapter, 'supporting the consumer' (or similar title). This will include enhanced specific information and overarching requirements relating to vulnerable consumers, covering:

- Languages/translation requirements (ref: Languages Issues paper)
- DFV (ref: DFV Issues Paper)
- A consumer's right and ability to use an Authorised Representative (a current requirement under 3.5 but with clarifications and updates to update it in line with the Customer ID Determination and for clarity)
- A consumer's right and ability to use an Advocate (current 3.6, with updates/clarity changes)
- Accessibility requirements (see new separate issues paper).

CSPs' understanding of issues and requirements will be enhanced both through the inclusion of clearly articulated (in plain-English):

- expected outcomes (for consumers) and expectations (on CSPs), (accompanied by rules that spell out the minimum requirements that must be met by CSPs to meet these expectations), and
- clear guidance boxes in this and other chapters that explain key concepts.

Guidance: What do we mean by 'a consumer in vulnerable circumstances'?

A person experiencing (or at risk of experiencing) vulnerability is someone who experiences barriers accessing, engaging with, or maintaining telecommunications products.

These barriers include event-based circumstances, personal/social circumstances and market-based factors. Examples include sickness, bereavement, unemployment, customer impacted by domestic and family violence, disability, language or literacy barriers, age, etc).

A person may be in a vulnerable situation temporarily, or long term.

Proposal – *new/enhanced obligations in relation to CSPs' organisational culture and policies.*

CSPs will be required have policies and support material to support an organisation culture that considers fair and reasonable consumer outcomes, including for those that may be in vulnerable circumstances.

This will include, for example, being able to demonstrate that their organisational culture and practices appropriately supports compliance with this Code.

This might be demonstrated through:

- a clear articulation of expectations and values,
- evidence that policies and processes that consider fair consumer outcomes, including for those who may be experiencing vulnerability, are championed by staff from the CEO level down,
- policies and support material that outlines that the needs of particular vulnerable groups have been appropriately accommodated in the CSP's policies, processes and customer support arrangements.

This might be demonstrated through, for example:

- policies for managing particular vulnerabilities being developed:
 - by engaging an external consultant to advise on best practice, or
 - after engaging in direct consultation with individuals or groups with relevant expertise,
- specialist staff having the authority to resolve matters fairly, effectively, and efficiently,
- systems and processes being in place to assist different vulnerable groups – for example,
- specific contact channels for those experiencing domestic and family violence, financial hardship
- information and tools to help create awareness of help available, and to support self-identification of vulnerability, and assistance to self-manage (e.g. through apps/website to manage payments, change plan, etc..) or seek customer support assistance.

Chapter 3 – Organisational Culture and Governance: Policies and supporting materials [new]

1. CSPs must have policies and supporting materials on the following, managed and overseen by a senior executive:
 - a. Vulnerable consumers;
 - b. Domestic and Family Violence, including processes that consider the identification, support, and safety considerations for consumers affected by DFV;
 - c. Accessibility, including digital accessibility.

Guidance Policies and Supporting Materials

A CSP should have policies that address customers in vulnerable circumstances. A policy on 'vulnerable consumers' may consist of a suite of policies that relate to specific types of vulnerability (e.g. domestic and family violence, accessibility, financial hardship and others as the CSP considers appropriate to its size, scale and business model). It may have a generic 'vulnerable consumer' policy that addresses different types of vulnerability in the one document.

Proposal - new/enhanced obligations in relation to CSPs' training arrangements.

In addition to specific rules governing requirements on DFV, fair selling practices, language requirements, etc (as outlined in separate papers), the Code will require appropriate training for relevant staff on issues such as:

- understanding and identifying indicators or vulnerability/potential barriers,
- awareness of First Nations Australians' cultural and language differences,
- awareness of other cultural backgrounds
- awareness of the challenges and needs of those living with a disability,
- working with Advocates, including translators and interpreters, and
- working with Authorised Representatives

This would be demonstrated through a requirement to have training for:

- staff with any role in product or service design or related processes, have a broad understanding of this Code and awareness of different customer needs, and
- specialist staff have appropriately detailed and tailored training for their role, including in relation to recognising and responding to different customer needs.

Chapter 3 – Organisational Culture and Governance: Staff training – company-wide [new]

1. CSPs must provide company-wide staff training to support compliance with Code obligations, including:
 - a. Domestic and Family Violence. When developing this training, CSPs must have regard to, the Industry Guideline G660: Assisting

Consumers Affected by Domestic and Family Violence. It must include:

- i. information to help staff understand (at a high level) the nature and impact of DFV, and how to recognise common forms of DFV associated with a telecommunications service;
 - ii. Instruction on how to manage and respond to DFV-associated issues at a basic level (including how to safely escalate matters and how and where to seek support).
2. Company-wide staff training must occur:
 - a. at induction; and
 - b. as an annual refresher.

Guidance – company-wide training

Company-wide training is intended to provide staff in any role that can reasonably influence customer outcomes with a broad understanding of DFV and common presentations in the telecommunications space, thereby reducing the chance that a product or service may unintentionally be designed or presented in a way that could lead to harm to those in DFV situations. For example, understanding that certain features may be used by a DFV perpetrator to monitor their victim may lead to IT staff designing a service differently or marketing and selling it differently. For clarity, it is not expected that those in roles with no association or influence over customer outcomes receive DFV training (office cleaners, building maintenance staff, or administrative or other roles with no influence on customer outcomes).

Chapter 3 – Organisational Culture and Governance: Staff training – specialist staff [new]

1. Company-wide training must be supplemented by appropriately tailored training for any specialist staff to suit their specific roles and responsibilities. This includes:
 - a. training on DFV for:
 - i. frontline customer service staff;
 - ii. any specialist DFV staff; and
 - iii. staff working in areas likely to deal with DFV-related issues. This includes staff in sales, credit collections, financial hardship, fraud, privacy, and escalated complaints management roles.
2. Specialist staff training must occur:
 - a. at induction to a role; and
 - b. as an annual refresher.

Chapter 4 - Supporting the Consumer: DFV-support training requirements [new]

1. When developing DFV training for specialist staff, CSPs must have regard to, the Industry Guideline G660: Assisting Consumers Affected by Domestic and Family Violence. Training must:
 - a. include information to help staff recognise and safely respond to DFV as it is likely to present to them, in their role;

- b. include information on how to manage and safely respond to DFV-associated issues, ensuring staff are familiar with all relevant processes and procedures;
- c. include training, guidance and support on vicarious trauma; and
- d. ensure staff understand the specific legal and regulatory obligations relevant to their role as they relate to DFV.

Guidance – Staff training

It is strongly recommended that RSPs work with a reputable training provider with DFV expertise to develop and review DFV staff training. This will allow material to reflect both current best practice on DFV-specific issues and the CSP's company-specific needs (e.g. to support the CSP's policy and supporting materials). For further guidance see [G660 Assisting Consumers Affected by Domestic and Family Violence Industry Guideline, Chapter 5](#). A list of DFV training providers is found in Appendix 3: Training resources for RSPs.

Proposal - *new/enhanced obligations in relation to CSPs' governance arrangements.*

A requirement to demonstrate executive or senior management oversight of the development, implementation and appropriate review of policies, procedures and code compliance arrangements.

[Chapter 3 – Organisational Culture and Governance: Governance \[updated and strengthened 3.3.1\]](#)

1. CSPs must be able to demonstrate that their organisational culture appropriately supports compliance with this Code.
2. CSPs must establish specific governance arrangements to demonstrate compliance with this Code.
3. Code compliance governance arrangements must be overseen by a senior executive officer.

Note: Issues may be covered across a number of papers. All elements of the draft package are to be considered as a whole.

Draft new TCP Code outline

This section includes a draft refreshed TCP Code 'outline', showing:

- the new Code structure,
- a non-exhaustive list of agreed draft **outcomes and expectations** for each chapter,
- reference to **key new draft proposed code provisions** relevant to each chapter (with the actual draft new proposed provisions included in *Agreed Industry Position Papers*), and
- reference to relevant existing Code obligations (non-exhaustive), and
- one whole, new proposed draft chapter to assist you in visualising the finished Code

COMMUNICATIONS ALLIANCE LTD



INDUSTRY CODE

C628: 20xx

TELECOMMUNICATIONS CONSUMER PROTECTIONS CODE

Draft outline, to be read as part of the package, December 2023.

This document is intended to be illustrative, not exhaustive and must be read in conjunction with the Agreed Position Papers to understand the proposed approach and agreed industry positions.

C628:20XX Telecommunications Consumer Protections Code

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Introduction

DRAFTING NOTE

The Introductory Statement will be rewritten and restructured. Concepts will be carried across from the Introductory Statement and Chapter 1 of the current Code, with new information added to ensure the purpose and context are clear for the intended audience (CSPs) and to address common misunderstandings about the Code.

For detailed information and context on proposed changes of most relevance to this chapter, including new or substantially revised draft proposed code provisions linked with ACMA areas of concern, please refer to the following Agreed Position Papers:

- Code structure, measurements of success
- Scope and application

Additionally, the Code will be refreshed to aid compliance and provide clear consumer protections with a new, consumer-journey-focused structure and new chapter order:

- a clear 'hybrid' drafting approach, with outcomes, expectations and rules outlined in each chapter,
- measures of success, tied to key Code outcomes and expectations, to support improved compliance and enforcement activity,
- simplified, plain English drafting,
- addressing duplication and repetition of obligations, and
- refreshed guidance boxes to help CSPs understand their obligations to support consumers.

Example drafting is included below. This document is intended to be illustrative, not exhaustive and must be read in conjunction with the Agreed Position Papers to understand the proposed approach and agreed industry positions.

Overview: mandatory, enforceable consumer protection

DRAFTING NOTE

This drafting aims to address misunderstandings about the scope of the Code and an expectation that it covers everything to do with 'consumers' and 'telecommunications'. Additional information may be included in this section to make it clearer that this Code addresses some direct interactions between consumers and CSPs, with other direct and indirect issues covered elsewhere – scam, unwelcome calls, authentication, Triple Zero etc.

This Communications Alliance Telecommunications Consumer Protections (TCP) Code (the Code) sets out additional customer protection requirements for the interactions between Carriage Service Providers (CSPs) and consumers in areas where extra protections are required, over and above the requirements set out in economy-wide or telecommunications-specific legislation and regulation.

It also provides limited guidance on key consumer-related requirements and guidance covered elsewhere.

It cannot and does not attempt to summarise or define all telecommunications consumer-related legislative and regulatory obligations.

Scope - addressing the power imbalance

Consumer protections are required where there is a significant imbalance in power, rights and obligations of the two parties entering a contract (the *consumer* and CSP) and their ability to reasonably negotiate or manage a contract or end or exit a contract without penalty.

This Code outlines obligations on CSPs to address this imbalance in their dealings with residential and small business *consumers*. Vulnerable *consumers* are, by definition, likely to be most affected by a power imbalance, and are, therefore, a key focus for additional protections in this Code.

Information for consumers

This document is written for CSPs.

Separate information about the protections afforded to *consumers* through this Code, written specifically for a *consumer* audience, can be found [here](#) [link to be updated], including the 'Telecommunication Consumer Protections Code – information for consumers' information pack.

Background: the telecommunication consumer protection framework

The communications sector in Australia is regulated federally, with the primary legislation – the *Telecommunications Act 1997* (the Act) – designed to protect the long-term interests of Australian end-users of carriage services and ensure accessible and affordable services. It is complemented by the *Telecommunications (Consumer Protection and Services Standards) Act 1999*, which established a universal service regime and public interest telecommunications services.

The Australian Communications and Media Authority (ACMA) has primary responsibility for the regulation of the telecommunications sector.

CSPs are also subject to, and must comply with, the requirements included in general consumer law, such as the Australian Consumer Law (ACL), which is administered by the Australian Competition and Consumer Commission (ACCC), as well as a raft of other regulations managed by other regulators (including tax, privacy, online safety, national security, or copyright).

The ACMA's direct telecommunication (and broadcasting) regulation is supported by co-regulation in the form of registered, enforceable Codes developed under Part 6 of the Act. Codes enhance regulation through the setting of clear performance or conduct expectations in areas identified as requiring additional or specific telecommunications *consumer* safeguards. Registered Codes are subordinate to Acts of Parliament and instruments that are designated legislation. They should not repeat or paraphrase legislation or other regulatory instruments and must be consistent with Codes already registered.

The ACMA is responsible for registering telecommunications Codes. It will only do so once it is satisfied that the Code is consistent with the requirements of the Act, including that it meets public interest considerations, provides appropriate community safeguards for the matters covered by the Code, and promotes:

- the long-term interests of end users of telecommunications services,
- the efficiency and international competitiveness of the Australian telecommunications industry,
- service innovation, and the efficient, equitable and responsive delivery of telecommunications goods and services,
- market participation by all sectors of the Australian telecommunications industry,

- an efficient, competitive and responsive telecommunications industry,
- appropriate safeguards for telecommunications consumers,
- responsible practices in relation to the sending of commercial electronic messages, and
- responsible practices in relation to the making of telemarketing calls.

Where the telecommunications industry would benefit from sector-specific guidance on the practical implementation of Codes or other regulatory instruments, industry guidelines or industry guidance notes may be developed. These are voluntary and focus on best practice and practical 'how to' instructions for the industry.

The ACMA is ultimately responsible for enforcing the Codes it registers. It has powers to investigate and act where it considers organisations covered by the relevant Code may have contravened the rules set out in the Code, as well as possible breaches against other regulations or laws.

The ACMA reports on these actions each quarter. Further information is available from the ACMA [website](#).

Monitoring, reporting, enforcement and compliance arrangements are set out within each Code.

Code structure and summary of chapters

This Code is structured as follows:

- **Chapter 1:** Terminology, definitions and acronyms
- **Chapter 2:** General
- **Chapter 3:** Organisational culture, policies, training and governance
- **Chapter 4:** Supporting the consumer
- **Chapters 5-9:** are structured by customer journey:
 - Chapter 5: Responsible selling - Advertising and pre-sale information
 - Chapter 6: Responsible selling - Sales, contracts and credit assessments
 - Chapter 7: Customer service and support
 - Chapter 8: Billing and payments
 - Chapter 9: Credit management, debt management and disconnection
- **Chapter 10:** Performance and compliance measurement framework.
- **Appendixes**

Chapters 3-10 contain:

- **Outcomes** - the required outcomes for consumers,
- **Expectations** - the high-level expectations about what RSPs need to do to ensure that these consumer outcomes are realised,
- **Rules** - the minimum requirements / minimum compliance obligations on RSPs to meet the expectations, and
- **Measurement of Success (MoS)** - details about what needs to be recorded and reported on to measure that high-level outcomes are being met (effectiveness metrics) and that rules are complied with (process metrics).

Guidance notes are included for additional assistance about how rules should be implemented to ensure outcomes and expectations are met.

Code revision history

[placeholder pending substantive Code drafting]

Acknowledgements

[placeholder pending substantive Code drafting]

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1. TERMINOLOGY, DEFINITIONS AND ACRONYMS

DRAFTING NOTE

In the new structure, this Chapter will cover terminology, definitions, and acronyms.

All definitions and acronyms will be checked for currency and clarity, and new definitions and acronyms will be added as required (notably, to cover terminology required for domestic and family violence and the new term 'essential information').

For ease of use and clarity, key terms used throughout the Code will be italicised and linked to their complete definition the first time that they are used in each clause or guidance box.

Current Code clauses to be transferred (pending redrafting) include:

- CI 2.1 Interpretation
- CI 2.2 Definitions

For detailed information and context on proposed changes of most relevance to this chapter, including new or substantially revised draft proposed code provisions linked with ACMA areas of concern, please refer to the following Agreed Position Papers:

- Scope and application
 - Proposal: Definition of 'consumer' [updated]
- Domestic and Family Violence
 - Proposal: Definition of 'domestic and family violence' [new]
- Essential Information
 - Proposal: Definition of 'essential information' [new]
- Vulnerable customers
 - Proposal: Guidance on 'consumer in vulnerable circumstances' [new]

Additionally, the Code will be refreshed to aid compliance and provide clear consumer protections with a new, consumer-journey-focused structure and new chapter order:

- a clear 'hybrid' drafting approach, with outcomes, expectations and rules outlined in each chapter,
- measures of success, tied to key Code outcomes and expectations, to support improved compliance and enforcement activity,
- simplified, plain English drafting,
- addressing duplication and repetition of obligations, and
- refreshed guidance boxes to help CSPs understand their obligations to support consumers.

Example drafting is included below. This document is intended to be illustrative, not exhaustive and must be read in conjunction with the Agreed Position Papers to understand the proposed approach and agreed industry positions.

Summary

This chapter covers the terminology used within the Code, to support interpretation and compliance.

1.1. Terminology

- 1.1.1. All terms used in the Code are defined in this section. [new]
- 1.1.2. Key terms used throughout the Code are italicised and linked to their complete definitions here the first time they are used in each clause or section. [new]
- 1.1.3. Where telecommunications-specific terminology is used, unless otherwise stated, definitions align with the meanings defined in the *Telecommunications Act 1997*. [2.2(h)]

1.2. Interpretation

[placeholder pending substantive Code drafting, including review of current 2.2]

1.3. Definitions

DRAFTING NOTE

Definitions currently found in cl 2.1 will be inserted once reviewed and updated. There will be several new definitions as well as simplified versions of current definitions, while redundant definitions will be removed. This includes 'Supplier', which was simply defined as 'a Carriage Service Provider'. The Code will simply use the term 'Carriage Service Provider' or CSP.

(Note: as an example, draft definitions included in the Agreed position Papers are referenced below. Please read full Agreed Position Paper for full details.)

In this Code:

Consumer

means... (refer to Scope Paper)

Domestic and family violence

refers to a wide range of behaviours by a person(s) designed to create a dependency or to isolate, monitor, dominate, or control another person.

Guidance – DFV

The term 'domestic and family' does not seek to limit the definition to the immediate family or the domestic home. Abuse and violence occur within many personal relationships – intimate partners, immediate and extended family, communal and extended kinship relationships, and carer and guardianship arrangements.

'Violence' in this context consists of physical violence and other types of abuse that cause harm. Examples of abuse include life threatening communications, unwelcome communications, economic and financial abuse and technology-facilitated abuse.

For further guidance see G660 Assisting Consumers Affected by Domestic and Family Violence Industry Guideline.

Essential information

means... (refer to Essential Information paper).

1.4. Acronyms

[placeholder extract, pending substantive Code drafting, including review of current 2.1]

ACCAN

means the Australian Communications Consumer Action Network.

ACCC

means the Australian Competition and Consumer Commission.

ACMA

means the Australian Communications and Media Authority.

ASIC

means the Australian Securities and Investments Commission.

CIS

means Critical Information Summary.

CSP

means Carriage Service Provider.

DFV

means domestic and family violence.

KFS

means Key Fact Sheet.

MMS

means Multimedia Message Service.

MoS

means measures of success.

ROU

means Rights of Use.

SMS

means Short Message Service.

SFOA

means Standard form of Agreement.

TIO

means the Telecommunications Industry Ombudsman.

2. GENERAL

DRAFTING NOTE

This chapter will cover the administrative elements of the Code. It is intended to support CSPs to understand the requirements to comply with the Code and other connected obligations and sets out the process for the administration and management of the Code.

Current Code clauses to be transferred (pending redrafting) include:

- CI 1.1 Introduction
- CI 1.2 Relevant documents
- CI 1.3 Registration with ACMA
- CI 1.4 Scope
- CI 1.5 Compliance with the Code
- CI 1.6 Commencement date
- CI 1.7 Code review

For detailed information and context on proposed changes of most relevance to this chapter, including new or substantially revised draft proposed code provisions linked with ACMA areas of concern, please refer to the following Agreed Position Papers:

- Code structure, measurements of success
- Scope and application.

Additionally, the Code will be refreshed to aid compliance and provide clear consumer protections with a new, consumer-journey-focused structure and new chapter order:

- a clear 'hybrid' drafting approach, with outcomes, expectations and rules outlined in each chapter,
- measures of success, tied to key Code outcomes and expectations, to support improved compliance and enforcement activity,
- simplified, plain English drafting,
- addressing duplication and repetition of obligations, and
- refreshed guidance boxes to help CSPs understand their obligations to support consumers.

Example drafting is included below. This document is intended to be illustrative, not exhaustive and must be read in conjunction with the Agreed Position Papers to understand the proposed approach and agreed industry positions.

Summary

This chapter covers the administrative elements of the Code.

2.1. Introduction and scope

Code status

- 2.1.1. Section 112 of the *Telecommunications Act 1997* (Cth) sets out the intention of the Commonwealth Parliament that bodies and associations representing sections of the

telecommunications industry develop industry codes relating to the telecommunications activities of participants in those sections of the industry. [1.1.1]

- 2.1.2. The Code replaces TCP Code C628:2019 Incorporating Variation No.1/2022 upon Code commencement. [1.1.2]

Registration with the ACMA

- 2.1.3. [placeholder pending substantive Code drafting and refreshed 1.3]

Scope

- 2.1.4. The Code applies to *carriage service providers* in respect of their relationship with *consumers* [placeholder pending substantive Code drafting]. [1.4.1]
- 2.1.5. The Code applies to the *carriage service providers* section of the telecommunications industry under section 110 of the Act. [1.4.3]
- 2.1.6. The Code deals with the following activities as defined in section 109 of the Act: [1.4.2]
- (a) carrying on business as a *carriage service provider*; and
 - (b) supplying goods or services for use in connection with the supply of a *listed carriage service*.
- 2.1.7. The Code does not apply to matters covered by codes or standards registered or determined under the *Broadcasting Services Act 1992* (Cth) as required by section 116 of that Act. [1.4.4]

Compliance with the Code

- 2.1.8. To comply with the Code, CSPs must: [1.5.1]
- (a) comply with the Rules in Chapters [placeholder pending substantive Code drafting]; and
 - (b) [placeholder pending substantive Code drafting on MoS and reporting].
- 2.1.9. Guidance notes are included for additional assistance about how rules should be implemented to ensure outcomes and expectations are met. Compliance with guidance in the Code does not guarantee compliance with the relevant clause of the Code or the corresponding provision of legislation or requirement of a *regulator*. [1.5.2]
- 2.1.10. If there is a conflict between the requirements of the Code and any requirement imposed on a CSP by statute or by a *regulator*, a CSP will not be in breach of the Code by complying with the statute or the requirements of the *regulator*. [1.2.2]
- 2.1.11. Compliance with the Code does not guarantee compliance with any legislation or the requirements of any *regulator*. The Code is not a substitute for legal advice. [1.2.3]

2.2. Relevant documents

- 2.2.1. The Code should be read in conjunction with: [1.2]
- (a) legislation and regulation (mandatory), including the current versions of:
 - (i) the *Telecommunications Act 1997* (the Act);
 - (ii) the *Telecommunications (Consumer Protection and Service Standards) Act 1999* (Cth);
 - (iii) the *Competition and Consumer Act 2010* (Cth) including the Australian Consumer Law;

- (iv) the *Disability Discrimination Act 1992* (Cth);
 - (v) the *Racial Discrimination Act 1975* (Cth);
 - (vi) any other relevant equal opportunity legislation;
 - (vii) the *Privacy Act 1988* (Cth);
 - (viii) the *Spam Act 2003* (Cth);
 - (ix) the *Do Not Call Register Act 2006* (Cth);
 - (x) the *Online Safety Act 2021* (Cth);
 - (xi) the *Telecommunications Service Provider (Customer Identity Authentication) Determination 2022*;
 - (xii) the *Telecommunications Service Provider (International Mobile Roaming) Determination 2019*; and
 - (xiii) the *Telecommunications (Service Provider – Identity Checks for Prepaid Mobile Carriage Services) Determination 2017*.
- (b) industry codes (mandatory):
- (i) C525 Handling of Life Threatening and Unwelcome Communications Industry Code; and
 - (ii) C556 Number Management – Use of Numbers by Customers Industry Code.
- (c) industry guidance, including:
- (i) ACCC industry guide: "Consumer vulnerability: A business guide to the Australian Consumer Law", November 2021;
 - (ii) ACMA industry guide: Statement of Expectations for Vulnerable and Disadvantaged Consumers, May 2022;
 - (iii) ACCC industry guide: "Broadband speed claims: Industry guidance", October 2022;
 - (iv) G660 Assisting Consumers Affected by Domestic and Family Violence Industry Guideline;
 - (v) G652 NBN Migration Management Industry Guideline;
 - (vi) G612 Customer Requested Barring Industry Guideline.
 - (vii) IGN 010 Communications Alliance Industry Guidance Note: Customer Process – Handling of Life Threatening and Unwelcome Communications;
 - (viii) IGN 017 Communications Alliance Industry Guidance Note: Authorised Representatives and Advocates;
 - (ix) IGN 013 Communications Alliance Industry Guidance Note: Sales Practices and Credit and Debt Management.
 - (x) ASIC, ACCC industry guide: "Debt collection guideline: for collectors and creditors", April 2021;
 - (xi) ASIC, ACCC consumer guide: "Dealing with debt collectors: your rights & responsibilities", December 2020;
 - (xii) Web Content Accessibility Guidelines (WCAG), <https://www.w3.org/WAI/standards-guidelines/>

- (xiii) AMTA industry guidance: "Understanding coverage maps",
<https://amta.org.au/understanding-coverage-maps/>

2.3. Commencement date

- 2.3.1. This Code will commence [placeholder pending substantive Code drafting, 1.6]
- 2.3.2. Certain clauses include arrangements giving CSPs an option to delay implementation for [pending drafting] after Code commencement. They are as follows [placeholder pending substantive Code drafting, 1.6.1]

2.4. Code review and revision

- 2.4.1. The Code will be reviewed [placeholder pending substantive Code drafting, 1.7]

3. ORGANISATIONAL CULTURE AND GOVERNANCE

DRAFTING NOTE

This is chapter will cover expectations and requirements for every CSP to enable inclusive, fair and reasonable consumer outcomes through its organisational culture, effective policies and training, and related governance arrangements.

It covers issues from a whole-of-organisation perspective.

Current Code clauses to be transferred, pending redrafting, include:

- CI 3.3 Application of Code and training
- CI 3.7 Personal Information
- CI 4.7.2 Assessing performance
- CI 4.5.1 (c) Sales training
- CI 4.5.2(a) Meeting identified needs training

For detailed information and context on proposed changes of most relevance to this chapter, including new or substantially revised draft proposed code provisions linked with ACMA areas of concern, please refer to the following Agreed Position Papers:

- Accessibility
 - Proposal: Accessibility policy and governance requirements [new]
 - Proposal: Guidance – inclusive design [new]
- Domestic and Family Violence
 - Proposal: Staff training – company-wide [new]
 - Proposal: Staff training – specialist staff [new]
- Vulnerable customers
 - Proposal: Policies and supporting materials [new]
 - Proposal: Staff training – company-wide [new]
 - Proposal: Staff training – specialist staff [new]
 - Proposal: Governance [updated and strengthened cl 3.3.1]

Additionally, the Code will be refreshed to aid compliance and provide clear consumer protections with a new, consumer-journey-focused structure and new chapter order:

- a clear 'hybrid' drafting approach, with outcomes, expectations and rules outlined in each chapter,
- measures of success, tied to key Code outcomes and expectations, to support improved compliance and enforcement activity,
- simplified, plain English drafting,
- addressing duplication and repetition of obligations, and
- refreshed guidance boxes to help CSPs understand their obligations to support consumers.

Example drafting for Outcomes and Expectations is included below. This document is intended to be illustrative, not exhaustive and must be read in conjunction with the Agreed Position Papers to understand the proposed approach and agreed industry positions.

Summary

This chapter covers the expectations and requirements for every CSP to enable inclusive, fair and reasonable consumer outcomes through its organisational culture, policies, training and governance arrangements.

Outcomes

- I. Consumers benefit from a culture of compliance within their CSPs organisation and *consumer* protections are embedded into policies and procedures.
- II. Representatives are appropriately trained to support *consumers* and promote better outcomes.

Expectations

- I. CSPs will foster a culture of compliance by clearly articulating, supporting and championing *consumer* protection measures from the CEO level down.
- II. A CSP's policies will be embedded and reinforced through the CSP's training, processes, procedures and governance arrangements.
- III. CSPs will provide appropriate training and supporting material to staff to enable them to assist and support all *consumers*, including *vulnerable consumers*.

3.1. Rules

[placeholder pending substantive Code drafting, see relevant Agreed Position Papers outlined above]

4. SUPPORTING THE CONSUMER

DRAFTING NOTE

This chapter will cover obligations for CSP to enable inclusive, fair and reasonable consumer outcomes through its support of consumers and their authorised representatives. It will cover requirements that apply to and will benefit all consumers, giving particular focus to vulnerable consumers, and addressing issues raised in the ACMA SOE through new obligations, as well as bringing clarity to or strengthening existing obligations.

Current Code clauses to be transferred, pending redrafting, include:

- CI 3.1 Language
- CI 3.2 Information for Consumers
- CI 3.4 Disadvantaged and vulnerable Consumers
- CI 3.5 Authorised Representatives
- CI 3.6 Advocates

For detailed information and context on proposed changes of most relevance to this chapter, including new or substantially revised draft proposed code provisions linked with ACMA areas of concern, please refer to the following Agreed Position Papers:

- Accessibility
 - Proposal: Effective communication [update cls 3.2.2, 3.4.2, 4.5.2]
 - Proposal: Web accessibility [update cl 3.2.5]
 - Proposal: Accessibility policy and governance requirements [new]
- Domestic and Family Violence
 - Proposal: DFV-support policy and governance requirements [new]
 - Proposal: DFV-support training requirements [new]
- Languages and Translating Services
 - Proposal: Contact details for translation and interpreting services [new]
 - Proposal: Targeted advertising in a language other than English [new]
- Vulnerable customers
 - Proposal: Support training requirements [new]

Additionally, the Code will be refreshed to aid compliance and provide clear consumer protections with a new, consumer-journey-focused structure and new chapter order:

- a clear 'hybrid' drafting approach, with outcomes, expectations and rules outlined in each chapter,
- measures of success, tied to key Code outcomes and expectations, to support improved compliance and enforcement activity,
- simplified, plain English drafting,
- addressing duplication and repetition of obligations, and
- refreshed guidance boxes to help CSPs understand their obligations to support consumers.

Example drafting for Outcomes and Expectations is included below. This document is intended to be illustrative, not exhaustive and must be read in conjunction with the Agreed Position Papers to understand the proposed approach and agreed industry positions.

Summary

This chapter covers the expectations and requirements for every CSP to enable inclusive, fair and reasonable consumer outcomes through its support consumers and their authorised representatives.

Outcomes

- I. Consumers receive information from CSPs that is clear and accurate and communicated in a way that is appropriate to the *consumer's* needs.
- II. *Vulnerable consumers* are appropriately supported throughout the customer journey..

Expectations

- I. CSPs will provide information in a manner that is clear, accurate and accessible to *consumers*, and CSP representatives will also be trained to do so.
- II. CSPs will support the appointment of authorised representatives or advocates for *consumers* and will have in place policies to manage this process.
- III. If a CSP advertises products in a different language, it will also be able to provide support to *consumers* in that language.
- IV. CSPs will provide appropriate training and supporting material to staff to enable them to assist and support all *consumers*, including *vulnerable consumers*.

4.1. Rules

[placeholder pending substantive Code drafting, see relevant Agreed Position Papers outlined above]

5. RESPONSIBLE SELLING: ADVERTISING AND PRE-SALE INFORMATION

DRAFTING NOTE

This chapter will cover what CSPs must do when publishing information about or advertising their telecommunications products.

Current Code clauses to be transferred include:

- CI 4.1 Advertising
- CI 4.2 Critical Information Summary
- CI 4.3 Other relevant information

For detailed information and context on proposed changes of most relevance to this chapter, including new or substantially revised draft proposed code provisions linked with ACMA areas of concern, please refer to the following Agreed Position Papers:

- Responsible Selling Policies
 - Proposal: The CIS, essential information [update cl 4.2.2(a)]
 - Proposal: Advertising offers, [update cl 4.1.3]
- Essential Information
 - Proposal: The CIS, essential information [update cl 4.2.2(a)]
 - Proposal: Advertising offers [update 4.1.3]
- Mobile Network Coverage
 - Proposal: Advertising [update cl 4.1.2]
 - Proposal: Publishing information about telecommunications products [update cl 4.3.1]
- Languages and Translating Services
 - Proposal: The CIS, translation service [new]
- Payment Methods
 - Proposal: The CIS, payment options [new]

Additionally, the Code will be refreshed to aid compliance and provide clear consumer protections with a new, consumer-journey-focused structure and new chapter order:

- a clear 'hybrid' drafting approach, with outcomes, expectations and rules outlined in each chapter,
- measures of success, tied to key Code outcomes and expectations, to support improved compliance and enforcement activity,
- simplified, plain English drafting,
- addressing duplication and repetition of obligations, and
- refreshed guidance boxes to help CSPs understand their obligations to support consumers.

Example drafting is included below. This document is intended to be illustrative, not exhaustive and must be read in conjunction with the Agreed Position Papers to understand the proposed approach and agreed industry positions.

Summary

This chapter covers what CSPs must do when publishing information about or advertising their *telecommunications products*.

Outcomes

- I. Consumers will have access to consistent and appropriately comprehensive information to support them in making informed decisions and understanding *essential information* about *telecommunications products*.
- II. Advertising and published information about *telecommunications products* will be fair, accurate, and in plain language.
- III. Consumers are supported to make informed decisions about which *telecommunications products* best suit their needs and circumstances.

Expectations

- I. CSPs will assist *consumers* to make informed decisions about which *telecommunications products* best suit their needs and circumstances by:
 - (i) providing essential information about the *telecommunications products* offered by the CSP;
 - (ii) publishing information to enable *consumers* to compare *offers* and make an informed decision;
 - (iii) publishing information about *telecommunication products* that are free, fair, accurate, in plain language, and minimises the need for disclaimers; and
 - (iv) providing access to *essential information* in an accessible format suited to the publishing medium.

5.2. Rules: Critical Information Summary

Guidance: Critical Information Summary (CIS)

The CIS is designed to enable consumers to compare offers provided by each CSP to find a *telecommunications product* that best suit their needs and circumstances.

Critical Information Summary (CIS)

5.2.1. A CIS must be available for all current *offers*:

- (a) free of charge [4.2.1];
- (b) on the CSP's website [4.2.6(a)];
- (c) via prominently displayed links in advertised *offers* on the CSPs website, close or adjacent to the *offer's* description, (except in online banners, tiles, strips and pop-up advertising) [4.2.6(b)];
- (d) at the CSPs stores [4.2.6(c)];
- (e) in a *durable medium* [new]; and
- (f) as a separate document to the SFOA and any other contractual terms and conditions [4.2.4(a)].

- 5.2.2. A CIS must be available upon request for as long as the *offer* has active customers (including *offers* no longer publicly available) [4.2.7].
- 5.2.3. Each CIS must be:
- (a) no longer than two A4 pages for a single *offer* [4.2.3(b)(i)]; or
 - (b) no longer than it would be if a CIS were provided for each *offer* where the CIS contains multiple telecommunication products in a single document [4.2.3(b)(ii)].

Guidance – bundled offers

Where a CSP has multiple offers as part of a bundled package, the CSP may choose to supply a separate CIS for each offer in the bundled package or a combined CIS.

Special promotions and the CIS

- 5.2.4. CSPs must supply the CIS for the base *offer* of the *special promotion* [4.2.5].

Guidance – Special promotions

CSPs do not need to create a new CIS for every *special promotion*.

However, the differences between the base *offer* and the *special promotion* need to be clearly outlined to consumers, see [\[link to advertising requirements\]](#) and [\[link to Sales chapter\]](#).

Content of the CIS

- 5.2.5. Clear headings must be used for each element of the CIS [4.2.3(a)].
- 5.2.6. At the beginning of the document, in a separate, clearly identified section, each CIS must contain the following elements [4.2.2(a)]:
- (a) a description of the *telecommunications service* to be provided [4.2.2(a)(i)];
 - (b) the minimum periodic cost (where calculable) [4.2.2(a)(ii)];
 - (c) the minimum term [4.2.2(a)(v)];
 - (d) the minimum quantifiable price [4.2.2(a)(iv)]; and
 - (e) any exclusions and disclaimers [4.2.2(b)(iv)].

DRAFTING NOTE

Pending the outcome of proposals in the Essential Information paper, an alternative drafting will be considered for cl 5.2.6:

- At the beginning of the document, in a separate, clearly identified section, each CIS must outline *essential information* about the telecommunications product offered.

For further details, see the Essential Information and Responsible Selling Policies papers.

- 5.2.7. In the body of the document, each CIS must contain the following elements [4.2.2(b)]:
- (a) a description of any *telecommunications good* that is a mandatory component of the *offer* (if relevant) [4.2.2(b)(ii)];

- (b) the cost of any *telecommunications good* that is a mandatory component of the *offer*, where that cost is not built into the *offer* (if relevant) [4.2.2(b)(ii)];
- (c) information to assist a *consumer* in approximating any early termination fees applicable at any time during the minimum term [4.2.2(b)(v)];
- (d) a description of bundled *telecommunications products* (if relevant) [4.2.2(b)(i)];
- (e) a description of the impact of cancellation of a bundled *telecommunications product* (if relevant) [new];
- (f) details of payment options [new];
- (g) where relevant, calculable and where the *offer* is not unlimited or subject to shaping, the cost of:
 - (i) 1Gb of data [4.2.2(b)(viii)];
 - (ii) 2 minute Standard National Mobile Call (including flagfall where applicable) [4.2.2(b)(vi)];
 - (iii) sending a Standard National Mobile SMS [4.2.2(b)(vii)];
- (h) where relevant, calculable and where the *offer* is not unlimited or subject to shaping, information about:
 - (i) estimating call and data usage [4.2.2(b)(ix)];
 - (ii) international calling and associated costs [4.2.2(b)(ix)];
 - (iii) domestic roaming and associated costs [4.2.2(b)(x)]; and
 - (iv) international roaming and associated costs [4.2.2(b)(x)].
- (i) information on translation services, displayed in at least 5 community languages [new];
- (j) the CSPs customer service contact details [4.2.2(b)(xi)];
- (k) information on the CSP's complaints handling process (as defined in the Complaints Standard) [4.2.2(b)(xii)]; and
- (l) contact details for the Telecommunications Industry Ombudsman, including information that accessing the TIO is free for *consumers* [4.2.2(b)(xiii)].

Guidance – use of links in the CIS

In the CIS, CSPs can use a link to their website (e.g. use of a hyperlink or QR code) or instructions on where further, detailed information is located to share information about:

- payment options;
- estimating call and data usage;
- international calling and associated costs;
- domestic roaming and associated costs;
- international roaming and associated costs;
- translation services;
- complaint handling process; and
- contact details for the Telecommunications Industry Ombudsman.

Guidance – additional information [4.2.4(b)]

To support informed decision making and understanding of an *offer*, the CIS may include information about or links to other relevant product or service information, in addition to the mandatory requirements set out above.

5.3. Rules: Advertising

Advertising offers

- 5.3.1. CSPs must be able to demonstrate that an *offer* is advertised in a manner that is: [4.1.1]
- (a) fair, accurate, and in plain language [3.2.1]; and
 - (b) minimises the need for disclaimers. [new, current guidance 4.1.7]

Guidance – plain language

Plain language simplifies complex ideas for easy understanding. It avoids complicated words and keeps sentences short. This approach results in clear, accessible, inclusive, and efficient communication, making information easier to grasp for most consumers.

Plain language is particularly important when communicating with a diverse audience or when conveying important information, by reducing the risk of misinterpretation or confusion.

Consumers are more likely to engage with and retain information that is presented in a straightforward and understandable manner.

- 5.3.2. When advertising *offers*, CSPs must inform *consumers* about the advertised *telecommunications product* by: [4.1.3]
- (a) capturing *essential information* in the body of the advertising; [4.1.3(a)]
 - (b) including the terms and conditions of the *offer*; [4.1.3(a)] and
 - (c) ensuring any exclusions and disclaimers used do not negate the *essential information* or terms and conditions of the *offer*. [4.1.7(a)], [4.1.3(b)]

Advertising special promotions

- 5.3.3. In addition to [advertising offers clause], CSPs must inform *consumers* of *essential information* about *special promotions*, including disclosing: [4.1.4], [4.1.4(a)]
- (a) any exclusions and disclaimers; [4.1.4(a)]
 - (b) the end date (if relevant); [4.1.4(b)] and
 - (c) eligibility requirements (if relevant). [4.1.4(c)]

Guidance – special promotions

Examples of exclusions and disclaimers include:

- small print terms and conditions;
- qualifying statements such as 'stocks are limited'; or
- the period during which a customer will receive any associated promotional offering(s).

Examples of eligibility requirements include:

- use of a coupon;
- bundling with other telecommunications products; or
- restriction to a specific class of consumers (such as student offers).

Content of advertising for general telecommunications information

5.3.4. When advertising *telecommunications products*, CSPs must ensure: [4.3.1]

- (a) the periodic price is *prominently displayed*; [new]
- (b) the *minimum quantifiable price* is *prominently displayed* (but not necessarily as prominent as the periodic price); [4.1.2(k)]
- (c) headline representations reflect the *offer* fairly and accurately by ensuring: [4.1.2(a)], [4.1.2(g)]
 - (i) any extra charges for the use of the *telecommunications service* are disclosed; [4.1.2(e)], [4.1.2(h)], [4.1.2(j)]
 - (ii) any extra costs relating to bundled *telecommunications products* are disclosed, including the periodic price and minimum quantifiable price; [4.1.2(f)], [4.1.2(f)]
 - (iii) exclusions and disclaimers for the *offer* are *prominently displayed*; [4.1.2(g)], [4.1.7] and
 - (iv) any exclusions and disclaimers do not negate the terms of the *offer*. [4.1.7(a)]
- (d) the term 'unlimited' or equivalent is only used where the ordinary use of the *telecommunications service* in Australia is genuinely unlimited and not subject to exclusions, including exclusions for various types of calls or usage, or selected parts of the network; [4.1.2(b)]
- (e) the term 'cap' is only used where the *offer* contains a hard cap; [4.1.2(l)], [4.1.2(m)]
- (f) the terms 'no exceptions', 'no exclusions' or 'no catches' or equivalent are only used where there are genuinely no exceptions to the *offer*; [4.1.2(c)]
- (g) the term 'free' is only used where the cost of the *telecommunications product* is genuinely free and is not recovered from the *consumer* over the life of the *contract* by way of higher costs; [4.1.2(d)]
- (h) *prominently display* the cost of 1Gb of data within Australia when advertising a data only *telecommunications service* with an included data allowance; [4.1.5], [4.1.6]
- (i) if claiming a network coverage area in Australia, that the network coverage is generally available for *consumers* in the claimed coverage area; [4.1.2(j)]
- (j) for mobile network coverage, display the underlying wholesale provider; and [new]

- (k) claims regarding broadband speeds, network coverage and other performance characteristics of a *telecommunications product* are fair and accurate. [4.1.2(n)]

Guidance – Broadband speed claims

CSPs must be aware of their obligations under Australian Consumer Law (ACL) in Schedule 2 of the Competition and Consumer Act 2010 (Cth) when advertising or promoting broadband speeds or data transfer rates on their networks.

CSPs should refer to the [ACCC's Broadband speed claims: Industry guidance](#) for additional information on advertising fixed-line broadband plans.

Consider advertising medium

- 5.3.5. CSPs must ensure their advertising content is appropriate for the advertising medium, including: [4.1.3]
- (a) considering the advertising medium when deciding how much content to include in the advertisement; [4.1.3(c)]
 - (b) considering the advertising medium when deciding how to display *essential information*; [4.1.3(a)]
 - (c) considering the advertising medium when deciding how to display exclusions and disclaimers; [4.1.7(b)] and
 - (d) for online advertising where essential information cannot be displayed, making the essential information accessible via a link. [new]

Inaccurate advertising of essential information

- 5.3.6. CSPs must monitor complaints to identify possible inaccurate essential information in advertising. [4.4.1 (c)]
- 5.3.7. Once a CSP is aware that an advertised *offer* contains inaccurate essential information, it must take reasonable steps to correct the advertisement in a reasonable timeframe. [4.4.1 (b)]

Guidance – reasonable timeframe

What is a reasonable timeframe to update inaccurate information will depend on the advertising medium used. For instance, changing online ads is faster than updating billboards or television commercials.

5.4. Rules: Telecommunications product information

Publishing information about telecommunications products

- 5.4.1. CSPs must be able to demonstrate that information about *telecommunications products* is published in a manner that is: [4.3.1]
- (a) fair, accurate, and in plain language; [3.2.1] and
 - (b) minimises the need for disclaimers. [new, current guidance 4.1.7]

Guidance – publishing telecommunications product information

Publishing information to consumers about a telecommunications product includes:

- verbally;
- in writing;
- displaying the information in a retail store; or
- electronically.

See also [plain language guidance](#).

- 5.4.2. Information about *telecommunications products* currently offered must be made publicly available by CSPs without charge, including: [\[4.3.1\]](#)
- (a) a description of the *essential information* of the telecommunications product offered; [\[4.3.1\(a\)\]](#)
 - (b) the manufacturer's name, where *telecommunications goods* are supplied by a third party; [\[4.3.1\(b\)\]](#)
 - (c) the main technical features of any *telecommunications goods* offered by a CSP, or where this information can be obtained; [\[4.3.1\(c\)\]](#)
 - (d) information on the bill formats, billing options, billing period and payment options offered by the CSP, including associated fees for payment options; [\[4.3.1\(d\)\]](#)
 - (e) information to assist *consumers* in estimating their usage requirements; [\[4.3.1\(e\)\]](#)
 - (f) details of any post-sales support available, and any applicable fees or charges for this support; [\[4.3.1\(f\)\]](#)
 - (g) information about roaming (domestic and international), including information about: [\[4.3.1\(h\)\]](#)
 - (i) how to activate or deactivate roaming;
 - (ii) the *maximum charge information* for using the *telecommunications service* while overseas, as outlined in the Telecommunications Service Provider (International Mobile Roaming) Determination 2019; [\[new, link with Telecommunications Service Provider \(International Mobile Roaming\) Determination 2019\]](#); and
 - (iii) the circumstances in which additional *charges* may be imposed in Australia when the service roams onto a different network (if relevant);
 - (h) the name of the carrier whose network is used to provide the *telecommunications service*, if the CSP does not own the network over which it is supplying a *telecommunications service*, ensuring it is clear that: [\[4.3.1\(i\)\]](#)
 - (i) the CSP is responsible for the service to the *consumer*; and
 - (ii) is not affiliated or related to the carrier unless it is.
 - (i) network coverage in Australia for *telecommunications services*, which will include a map or diagram of the network coverage; [\[4.3.1\(g\)\]](#) and
 - (j) for mobile network coverage, display the underlying wholesale provider. [\[new\]](#)

6. RESPONSIBLE SELLING: SALES, CONTRACTS AND CREDIT ASSESSMENTS

DRAFTING NOTE

This Chapter will cover the requirements during the sale for a CSP act during the sales process, as the general consumer becomes a customer.

Current Code clauses to be transferred, pending redrafting, include:

- CI 4.2 Critical Information Summary
- CI 4.5 Responsible approach to Selling
- CI 4.6 Customer Contracts
- CI 6.1 Responsible provision of Telecommunications Products
- CI 6.2 Provision of information where service is Restricted at the time of application
- CI 6.3 Security Deposit

For detailed information and context on proposed changes of most relevance to this chapter, including new or substantially revised draft proposed code provisions linked with ACMA areas of concern, please refer to the following Agreed Position Papers:

- Responsible Selling Policies
 - Proposal: Point of Sale [update current cl 4.5.1 (b)]
 - Proposal: Order summary [new]
 - Proposal: Customer contract [update cl 4.6.5]
 - Proposal: Selling Policies [new]
 - Proposal: Responsible incentive structures [new]
- Credit Assessment
 - Proposal: Assess capacity to pay and manage debt, new postpaid customers [update 6.1]
 - Proposal: Assess capacity to pay and manage debt, existing postpaid customers [update 6.1]
 - Proposal: Declined credit assessments [update cl 6.1.2]
- Customer Service
 - Proposal: Meeting consumer needs [update cl 4.5.2]
- Domestic and Family Violence
 - Proposal: SFOA/T&Cs requirements [new]
- Essential Information
 - Proposal: Point of Sale, [update cl 4.5.1 (b)]

Additionally, the Code will be refreshed to aid compliance and provide clear consumer protections with a new, consumer-journey-focused structure and new chapter order:

- a clear 'hybrid' drafting approach, with outcomes, expectations and rules outlined in each chapter,

- measures of success, tied to key Code outcomes and expectations, to support improved compliance and enforcement activity,
- simplified, plain English drafting,
- addressing duplication and repetition of obligations, and
- refreshed guidance boxes to help CSPs understand their obligations to support consumers.

Example drafting for Outcomes and Expectations is included below. This document is intended to be illustrative, not exhaustive and must be read in conjunction with the Agreed Position Papers to understand the proposed approach and agreed industry positions.

Summary

Covers the requirements during the sale, to manage the direct interactions that form a sale as the general consumer becomes a customer.

Outcomes

- I. Safeguards at point of sale to protect *consumers* and prevent inappropriate sales of *telecommunications products*.
- II. *Consumers* receive all essential information at point of sale.
- III. *Consumers* are supported to make informed decisions about which *telecommunications products* best suit their needs and circumstances.

Expectations

- I. CSPs support *consumers* to make informed decisions about which of the *telecommunications products* they have available best suits their needs and circumstances.
- II. CSPs take a responsible approach to selling *telecommunications products*.
- III. CSPs sales policies and supporting materials are designed to support responsible selling.

6.1. Rules

[placeholder pending substantive Code drafting, see relevant Agreed Position Papers outlined above]

7. CUSTOMER SERVICE AND SUPPORT

DRAFTING NOTE

This Chapter will cover the obligations for CSPs when supporting a customer in their interactions with their CSP. The general expectations set out in Chapter 4 Supporting the Consumer also apply, however this Chapter is focused on the management of current or former customers of a CSP.

Current Code clauses to be transferred, pending redrafting, include:

- CI 3.8 Tools for preventing unauthorised access
- CI 4.4 Remedies for inaccurate information
- CI 4.7 Customer Service
- Chapter 9 Changing Suppliers

For detailed information and context on proposed changes of most relevance to this chapter, including new or substantially revised draft proposed code provisions linked with ACMA areas of concern, please refer to the following Agreed Position Papers:

- Customer Service
 - Proposal: Contact channels [new]
 - Proposal: Effective service [update ci 4.7.1]
- Domestic and Family Violence
 - Proposal: Access to support and evidence – DFV-affected consumers [new]

Additionally, the Code will be refreshed to aid compliance and provide clear consumer protections with a new, consumer-journey-focused structure and new chapter order:

- a clear 'hybrid' drafting approach, with outcomes, expectations and rules outlined in each chapter,
- measures of success, tied to key Code outcomes and expectations, to support improved compliance and enforcement activity,
- simplified, plain English drafting,
- addressing duplication and repetition of obligations, and
- refreshed guidance boxes to help CSPs understand their obligations to support consumers.

Example drafting for Outcomes and Expectations is included below. This document is intended to be illustrative, not exhaustive and must be read in conjunction with the Agreed Position Papers to understand the proposed approach and agreed industry positions.

Summary

This chapter covers the requirements for CSPs when supporting a *customer* in their interactions with their CSP.

Outcomes

- I. Customers are treated fairly and reasonably, with their needs and circumstances considered.
- II. Customers can easily and conveniently contact their CSPs.
- III. Customer enquiries are managed effectively, and efficiently.

Expectations

- I. CSPs will manage customers fairly and reasonably, with a proactive focus on limiting the impact of vulnerability experienced by customers to prevent harm when accessing and managing *telecommunications products*.
- II. CSPs will provide customers with consistent and effective customer service, regardless of the communication method that *consumers* use to contact their CSP, with consideration given to their needs and circumstances including:
 - i. clearly communicating information about customer service channels and options;
 - ii. clearly communicating internal customer service escalation pathways; and
 - iii. having a process for the ongoing management of a customer enquiry, including external referrals as appropriate.

7.1. Rules

[placeholder pending substantive Code drafting, see relevant Agreed Position Papers outlined above]

8. CHARGING, BILLS, AND PAYMENTS

DRAFTING NOTE

This Chapter will cover CSPs obligations for charges, billing and payments. All clauses relating to the management of billing and charges will be consolidated into this Chapter.

Current Code clauses to be transferred, pending redrafting, include:

- CI 5.1 Information about charging, Bills and payment processes
- CI 5.2 Charging policies and Rules, charging for Bills
- CI 5.3 The Bill
- CI 5.4 Timing of Bill
- CI 5.5 Verifying Charges
- CI 5.6 Payment Options
- CI 5.7 Direct Debit
- CI 5.8 Third Party Charges
- CI 6.4 Spend Management Tools
- CI 6.5 Usage notifications

For detailed information and context on proposed changes of most relevance to this chapter, including new or substantially revised draft proposed code provisions linked with ACMA areas of concern, please refer to the following Agreed Position Papers:

- Payment Methods
 - Proposal: Flexible payments [new]
 - Proposal: Direct debit payments [updated and extended cl. 5.7.1]
 - Proposal: Failed direct debit payments [new]
 - Proposal: Remedies for direct debit errors [updated cl 5.7.1 (g)]

Additionally, the Code will be refreshed to aid compliance and provide clear consumer protections with a new, consumer-journey-focused structure and new chapter order:

- a clear 'hybrid' drafting approach, with outcomes, expectations and rules outlined in each chapter,
- measures of success, tied to key Code outcomes and expectations, to support improved compliance and enforcement activity,
- simplified, plain English drafting,
- addressing duplication and repetition of obligations, and
- refreshed guidance boxes to help CSPs understand their obligations to support consumers.

Example drafting for Outcomes and Expectations is included below. This document is intended to be illustrative, not exhaustive and must be read in conjunction with the Agreed Position Papers to understand the proposed approach and agreed industry positions.

Summary

This chapter covers what CSPs must do in relation to charges, billing and payments.

Outcome

- I. Customers can verify charges and bills.
- II. Customers have flexibility and control over their payment options.
- III. Customers are supported with billing enquiries, including for third party charges.

Expectations

- I. CSPs will provide information about bills and charges to customers arising out of the supply of *telecommunications products*.
- II. CSPs will ensure charges and billing information are clear, accurate and provided promptly for purchased or consumed *telecommunications products*.
- III. CSPs will ensure available payment options are clear and flexible to support customer choice.

8.1. Rules

[placeholder pending substantive Code drafting, see relevant Agreed Position Papers outlined above]

9. CREDIT MANAGEMENT, DEBT MANAGEMENT, AND DISCONNECTION

DRAFTING NOTE

This Chapter will cover the expectations for CSPs administration of credit and debt management, default matters, and the process for CSPs to disconnect a service due. This will include drafting to support improve communications and notifications to consumers and for disconnection to be an option of last resort.

Current Code clauses to be transferred, pending redrafting, include:

- CI 6.6 Reminder notices
- CI 6.7 Notice to Restrict, Suspend or Disconnect a service for Credit and/or debt Management Reasons
- CI 6.8 Fair Credit Management process
- CI 6.9 Credit Management for disputed amounts
- CI 6.10 Debt collection

For detailed information and context on proposed changes of most relevance to this chapter, including new or substantially revised draft proposed code provisions linked with ACMA areas of concern, please refer to the following Agreed Position Papers:

- Credit/Debt Management
 - Proposal: Protecting DFV affected consumers from disconnection [new]
 - Proposal: Protecting consumers affected by a natural disaster from disconnection [new]
 - Proposal: Disconnected in error [new]
 - Proposal: Suspension notices [update cls 6.7.3, 6.7.4]
 - Proposal: Disconnection notices [update cls 6.7.3, 6.7.4, 6.7.5]
 - Proposal: Provide clear information for all plan types about the consequences of missed automatic payments [new]
- Domestic and Family Violence
 - Proposal: Protecting DFV affected consumers from disconnection [new]

Additionally, the Code will be refreshed to aid compliance and provide clear consumer protections with a new, consumer-journey-focused structure and new chapter order:

- a clear 'hybrid' drafting approach, with outcomes, expectations and rules outlined in each chapter,
- measures of success, tied to key Code outcomes and expectations, to support improved compliance and enforcement activity,
- simplified, plain English drafting,
- addressing duplication and repetition of obligations, and
- refreshed guidance boxes to help CSPs understand their obligations to support consumers.

Example drafting for Outcomes and Expectations is included below. This document is intended to be illustrative, not exhaustive and must be read in conjunction with the Agreed Position Papers to understand the proposed approach and agreed industry positions.

Summary

This chapter covers how CSPs approach credit and debt management, default matters, and the process for CSPs to disconnect a service due.

Outcomes

- I. Customers are notified of potential credit and debt management activity.
- II. Customers are informed of the consequences of non-payment for *telecommunications products*, including the restriction, suspension and disconnection of *telecommunications services*.

Expectations

- I. CSPs will have processes for restriction, suspension and disconnection for non-paying customers not in financial hardship.
- II. CSPs will provide sufficient notice to customers about credit and debt management activity, including suspensions, restrictions, disconnections, and referrals to debt collection agencies.
- III. CSPs will treat disconnection as an option of last resort.

9.1. Rules

[placeholder pending substantive Code drafting, see relevant Agreed Position Papers outlined above]

10. PERFORMANCE MEASUREMENT FRAMEWORK AND COMPLIANCE

DRAFTING NOTE

This Chapter will cover performance measurements to demonstrate CSP compliance with the minimum compliance obligations in this Code.

It will be substantively updated with much clearer requirements, increasing transparency and understanding of compliance.

Current Code clauses to be transferred, pending redrafting, include:

- Ch 10 Code Compliance and Monitoring
- CI 4.7.3 Complaints in Context
- Appendix 1 Role of Communications Compliances

Process and effectiveness metrics will be identified, with reporting to take place via three means: public reporting, risk management and attestation, as described in the Agreed Position Paper Code structure and measurements of success.

For detailed information and context on proposed changes of most relevance to this chapter, including new or substantially revised draft proposed code provisions linked with ACMA areas of concern, please refer to the following Agreed Position Papers:

- Code structure, measurements of success

Additionally, the Code will be refreshed to aid compliance and provide clear consumer protections with a new, consumer-journey-focused structure and new chapter order:

- a clear 'hybrid' drafting approach, with outcomes, expectations and rules outlined in each chapter,
- measures of success, tied to key Code outcomes and expectations, to support improved compliance and enforcement activity,
- simplified, plain English drafting,
- addressing duplication and repetition of obligations, and
- refreshed guidance boxes to help CSPs understand their obligations to support consumers.

Example drafting for Outcomes and Expectations is included below. This document is intended to be illustrative, not exhaustive and must be read in conjunction with the Agreed Position Papers to understand the proposed approach and agreed industry positions.

Summary

This chapter covers performance measurements to demonstrate CSP compliance with the minimum compliance obligations in this Code.

Outcomes

- I. *Consumers* have meaningful, contextual and comparable performance metrics on CSP customer service performance.
- II. *Consumers* can reasonably compare CSP customer service performance.

Expectations

- I. CSPs have clearly defined performance measurements that directly relate to the TCP Code objectives and obligations.
- II. CSPs are guided and supported to assess their compliance with this Code consistently and efficiently.

10.1. Rules

[placeholder pending substantive Code drafting, see relevant Agreed Position Papers outlined above]

10.2. Measures of Success

[placeholder pending substantive Code drafting, see relevant Agreed Position Papers outlined above]

Appendix 1

[placeholder pending substantive Code drafting]

Participants

[placeholder pending substantive Code drafting]

Communications Alliance was formed in 1997 to provide a unified voice for the Australian communications industry and to lead it into the next generation of converging networks, technologies and services.

In pursuing its goals, Communications Alliance offers a forum for the industry to make coherent and constructive contributions to policy development and debate.

Communications Alliance seeks to facilitate open, effective and ethical competition between service providers while ensuring efficient, safe operation of networks, the provision of innovative services and the enhancement of consumer outcomes.

It is committed to the achievement of the policy objective of the Telecommunications Act 1997 - the greatest practicable use of industry self-regulation without imposing undue financial and administrative burdens on industry.



Published by:
COMMUNICATIONS
ALLIANCE LTD

Level 12
75 Miller Street
North Sydney
NSW 2060 Australia

Correspondence
PO Box 444
Milsons Point
NSW 1565

T 61 2 9959 9111
F 61 2 9954 6136
TTY 61 2 9923 1911
E info@commsalliance.com.au
www.commsalliance.com.au
ABN 56 078 026 507

Care should be taken to ensure the material used is from the current version of the Standard or Industry Code and that it is updated whenever the Standard or Code is amended or revised. The number and date of the Standard or Code should therefore be clearly identified. If in doubt please contact Communications Alliance

Stakeholder feedback comment log

This section includes a spreadsheet with comments received on the 'final draft position papers' – and clear information on how comments were dealt with.

Draft Position Paper Comment Log

Scope and Application					
Org.	Issue	Comment	Suggested change to drafting (if applicable)	DC Comment	How it has been addressed
ACCAN	Comment 1: small business definition (Please refer to the agreed position paper for the three options proposed)	<p>Comment 1: ACCAN supports bringing the TCP code's definition of consumer in line with the updated definition of consumer in the ACL (\$100,000). ACCAN considers that as the draft financial hardship standard proposes alignment with the ACL, any subsequent code provisions that would be placed in the revised code should follow this precedent.</p> <p>ACCAN considers that consumers and small businesses should not be subject to fewer protections from codes in the telecommunications sector compared to the wider application of the ACL. ACCAN is concerned that the proposed approach may unduly exclude small businesses from the protections of the TCP Code that they would otherwise receive under the ACL.</p> <p>ACCAN notes industry concerns about incurring</p>		<p>ACCAN's comments do not consider the intent of the protections. Aligning to an instrument that has its threshold set for different purposes does not make sense, per the details provided in the paper.</p> <p>Information on numbers is commercially sensitive but individual CSPs have offered to discuss details with the ACMA, confidentially, individually.</p> <p>We note that ACCAN has not provided any evidence to explain its concerns, and which carve outs might be a problem, for how many, and why. As stated in the paper, the DC does not believe that the proposed definitions would risk excluding genuinely small business from the Code's protections.</p>	<p>The Agreed Position Paper has been updated to reflect more recent conversations and our submission to the ACMA on the draft FH Standard.</p> <p>We further note that individual CSPs are very happy to talk to the ACMA directly with more information on costs per comment left, and per CA discussions with the ACMA staff.</p>

Scope and Application					
Org.	Issue	Comment	Suggested change to drafting (if applicable)	DC Comment	How it has been addressed
		compliance costs without an attributable benefit and would appreciate further detail on the number and proportion of small businesses that would be excluded from the scope of the TCP Code by alternative definitions.			
	Comment 2: Large businesses currently in scope It is also important to note that keeping the TCP Code threshold at \$40,000 would not affect a CSP's obligations under the ACL, for example, in relation to misleading and deceptive conduct, and the consumer guarantees and warranties. Businesses would still have those essential ACL protections related to the acquisition of telecommunications goods and services.	Comment 2: ACCAN would appreciate further clarification and quantification about the costs to providers that a change in the threshold of TCP code application from \$40,000 to \$100,000 would result in.			
TIO	Small business definition <i>Overarching</i>	1. We agree it is not the purpose of the TCP Code to cover genuinely large or enterprise businesses. However, the scope of the Code should be careful not to exclude small businesses. 2. To ensure that the TIO provides an effective		As stated in the paper, the DC does not believe that the proposed definitions would risk excluding genuinely small business from the Code's protections.	

Scope and Application					
Org.	Issue	Comment	Suggested change to drafting (if applicable)	DC Comment	How it has been addressed
		service we will need to re-examine our definition for small business consumers in light of changes in other regulatory instruments. As such, there is limited merit in attempting to align the TCP Code's definition with ours.			

Accessibility					
Org.	Issue	Comment	Suggested change to drafting (if applicable)	DC Comment	How it has been addressed
TIO	All accessibility issues as outlined in paper	We are supportive of these proposals in principle, but we cannot make full comment until we are able to review the draft Code.		Noted. Key new or substantially changed clauses have been our focus for this part of the process, but the iterative drafting process for further drafting will provide stakeholders with further opportunities to review provisions in context.	N/A (Cannot be addressed until full drafting.)
ACCAN	Proposal – increase prominence and understanding of accessibility requirements in the Code through new headings and linked guidance. Sample drafting <u>Chapter 4: Supporting the Customer - effective communication.</u> 1.CSPs must communicate with consumers in a manner appropriate to the consumer's communication needs, including those with a disability. (current 3.2.2) 2.CSPs must ensure that frontline customer service staff are able to communicate effectively in plain language (updated 3.2.2).	Proposed amended wording for 1.	ACCAN considers that this drafting be replaced with: - 'CSPs must provide methods of communication that are accessible for people with disability.'	We agree the wording is somewhat clunky and have amended it in both places.	Wording amended: 1.CSPs must communicate with consumers in a manner appropriate to their needs and circumstances (including for consumers with a disability). 3(a). Appropriately trained and resourced to assist customers (including those with a disability).
	3.CSPs must ensure that frontline staff are: a. provided the appropriate resources and training to assist customers with identified needs, including the disclosed	3.a. Is insufficient to provide appropriate guidance to support consumers.	ACCAN considers that the drafting of 3(a) should be revised to: - 'Appropriately trained and resourced to assist customers with disability'.		

Accessibility					
Org.	Issue	Comment	Suggested change to drafting (if applicable)	DC Comment	How it has been addressed
	needs of those with a disability (updated 4.5.2);				
	3.CSPs must ensure that frontline staff are: b. trained to recognise and interact appropriately and effectively with disadvantaged and vulnerable consumers (updated 3.4.2); c. trained to assist consumers find out where to access information about telecommunications products that may suit their specific disclosed needs. (updated 4.5.2 (d)).	3.b. ACCAN considers that this proposed drafting should include half yearly training refresher requirements for appropriate staff.			
ACCAN	Guidance(to accompany above drafting) Guidance – effective communication Plain language. Unless the CSP is targeting another language group (possible cross reference to the clause relating to targeted advertising to a language other than English), this means that the CSP must use plain English in its communications. As a guide, this means clear, straightforward expression that an average 12-14 year old Australian could understand.	ACCAN considers that if a CSP is targeting another language group other than English, that the CSP should be required to provide support materials in that language (Including but not limited to: CIS, Essential Information and Advertising).		To confirm, our intent re requirements for targeting another language group is consistent with this, as reflected in the drafting of the 'Languages' paper. It will be easier to ensure this is clear once more drafting is complete, but we have updated the Agreed Position Paper to make this clearer.	Guidance box updated as follows: Guidance – effective communication Plain language. Unless the CSP is targeting another language group (cross reference to the clause relating to targeted advertising to a language other than English to be inserted – see Agreed Position Paper – Language and translation services), this means that the CSP must use plain English in its communications. As

Accessibility					
Org.	Issue	Comment	Suggested change to drafting (if applicable)	DC Comment	How it has been addressed
					a guide, this means clear, straightforward expression that an average 12–14-year-old Australian could understand.
ACCAN	<p>Guidance(to accompany above drafting)</p> <p>Guidance – resources and training</p> <p>The following guides and resources may be useful:</p> <ul style="list-style-type: none"> • <u>Reading Writing Hotline</u> - Reader friendly communication – A guide to using plain language • <u>Accessible Telecoms</u> - a free service to find independent and up-to-date information on telecommunication products and services that are suitable for seniors and people with disabilities. • <u>Accesshub</u> – a government website with information and resources for the deaf community. • <u>Global Accessibility Reporting Initiative (GARI)</u> – designed to help consumers to find a device (e.g. phone, tablet, app, connected wearable) that has the accessibility features that work for them. • <u>ACCC Guide</u> – selling to Consumers with disabilities – A guide to competition and consumer law: for businesses 	<p>ACCAN considers that this guidance should be updated with contact details for these resources. ACCAN considers that additional resources should be added to this list, for example:</p> <ul style="list-style-type: none"> • Disability Awareness: disabilityawareness.com.au • Design for Dignity Guidelines https://and.org.au/DFD/ 		<p>We are happy to have suggestions for additional resources and have updated the Guidance box with the two additional resources suggested.</p> <p>To address the proposal to include contact details , we will hyperlink each resource within the Code for easy reference.</p>	<p>The Guidance box has been updated as suggested with the two new resources. A note has been added to confirm that each resource will be hyperlinked.</p>

Accessibility					
Org.	Issue	Comment	Suggested change to drafting (if applicable)	DC Comment	How it has been addressed
	<p>selling to and supplying consumers with disability.</p> <ul style="list-style-type: none"> • <u>ACCC Guide – selling to vulnerable Consumers</u> consumer-vulnerability.pdf (accc.gov.au) <p>(see also: Vulnerable consumer paper; sales paper)</p>				
ACCAN	<p>Proposal – update the TCP Code to appropriately reference the latest version of WCAG.</p> <p>Note: A key part of the DDA, which is the primary instrument in this space, relates to web accessibility. Rules for web accessibility are set out in Web Content Accessibility Guidelines (WCAG).</p> <p>The requirements for CSPs in relation to accessibility are no different from those for any other public-facing entity (i.e., they are not in any way telco-specific). In line with ACMA guidance on Code development, which states that Codes should not repeat or paraphrase legislation, this would generally suggest that specific clauses about accessibility in the TCP Code may not be appropriate, as reference should be to the DDA, and related guidance produced by the Australian Human Rights Commission on compliance.</p>	<p>ACCAN considers that the DC should provide more detail on the experts/bodies that they have consulted with. Additionally, the DC should consult with reputable accessibility/disability focused organisations to understand how to appropriately achieve this aim.</p>		<p>In addition to ACCAN, we have been engaging with Intopia and they are being very helpful and are happy assist us on drafting to ensure it's consistent with the requirements and new guidance being developed.</p> <p>It has just been formally announced that Intopia will be working in partnership with the Australian Human Rights Commission to update the Disability Discrimination Act's Web Advisory Notes. From their media release of 3 December:</p> <p>"The current version of the advisory notes (version 4.1), guides people and organisations to make their websites and other web resources accessible to as many people as possible, including people with #disability.</p>	N/A (not a drafting issue)

Accessibility					
Org.	Issue	Comment	Suggested change to drafting (if applicable)	DC Comment	How it has been addressed
	<p>However, as guidance is currently not as clear as it could be (though CA understands that it is shortly to be updated), the Drafting Committee (DC) believes that it is useful to have clear information about expected requirements under the DDA included in the Code to increase its visibility and understanding.</p> <p>The DC has had some preliminary discussions with experts in the field to try to understand the best way to appropriately achieve this aim and proposes to consult further to ensure that any wording is accurate and as useful as possible.</p>			<p>"We'll update the document next year to reflect the latest #accessibility standards and insights from our Human Rights and Technology Report.</p> <p>"We'll be inviting feedback as we update the web advisory notes."</p>	
ACCAN	<p>Proposal – update the TCP Code to require accessibility policies/governance</p> <p>Sample Drafting <u>Chapter 4 - Supporting the Customer: Web accessibility</u> [refreshed 3.2.5]</p> <p>1. When developing new web content, CSPs must meet the minimum standard as set out in the current Web Content Accessibility Guideline (WCAG).</p> <p>Guidance To meet the expectations of the DDA, organisations are</p>	<p>When developing new web content, CSPs must meet AA or higher compliance as set out in the current Web Content Accessibility Guideline (WCAG).</p> <p>ACCAN would suggest expanding this guidance to include considering accessibility at the start of any new customer software or hardware development or procurement process and ensure that ICT products and services</p>	<p>(change drafting to specifically reference AA)</p> <p>Guidance should be updated to:</p> <p>"To meet the expectations of the DDA, organisations are strongly encouraged to make sure their websites and applications are at least AA compliant with the latest version of WCAG. When developing or procuring software or hardware, organisations are strongly encouraged to ensure the product is compliant with AS EN 301 549: Accessibility requirements for ICT products and services."</p>	<p>This is a drafting issue - we agree with intent re WCAG. We have amended the wording.</p> <p>In relation to the AS EN standard, we are happy to look into this further, but it appears to relate to products and services purchased for internal use rather than to issues relating directly to the Code. It would therefore appear to be out of scope for this Code.</p>	<p>Wording has been amended as follows:</p> <p>1. When developing new digital content (websites, applications and content), CSPs must conform to Level AA (or higher) of the current Web Content Accessibility Guideline (WCAG).</p> <p>Guidance - WCAG WCAG standards are developed by the World Wide Web Consortium (W3C), and</p>

Accessibility					
Org.	Issue	Comment	Suggested change to drafting (if applicable)	DC Comment	How it has been addressed
	<p>strongly encouraged to make sure their main systems are current to new WCAG requirements within 12 months of any updates.'</p> <p>Note: Advice on appropriate wording and guidance is being sought from experts in this field. Drafting may be amended accordingly.</p>	are either developed in-house or purchased are compliant with AS EN 301 549 "Accessibility requirements for ICT products and services".			<p>cover digital accessibility, including web, mobile and applications.</p> <p>CSPs are strongly encouraged to monitor the Web Accessibility Initiative (W3C) website for updates to the WCAG, to allow them to comply with new updates as soon as possible after they are released.</p> <p>To meet the expectations of the Disability Discrimination Act (DDA), CSPs are strongly encouraged to make sure websites and applications are updated to be compliant with the latest version of WCAG within 12 months of any updates.</p>
Industry	Proposal – update the TCP Code to require accessibility policies/governance (on drafting as above)	Need an implementation time when WCAG changes. Advice is that under the DDA, there would be a reasonable approach to enforcement, but we are concerned that requirements in the Code effectively make it immediate, and that the ACMA will enforce		<p>The DC notes that the government appears to allow itself reasonable implementation time (the current standard is WCAG 2.2 (recently released), but the Digital Transformation Agency requirements still reference WCAG 2.1.</p> <p>We would welcome the ACMA's reassurance that</p>	

Accessibility					
Org.	Issue	Comment	Suggested change to drafting (if applicable)	DC Comment	How it has been addressed
		accordingly		any enforcement action would allow reasonable implementation periods in line with the approach that we understand is taken under the DDA (and across government).	
ACCAN	<p>Proposal – update the TCP Code to require accessibility policies/governance</p> <p><u>Chapter 4 - Supporting the Customer: Accessibility policy and governance requirements.</u></p> <p>1.CSPs must have policies and supporting materials on the following, managed and overseen by a senior executive:</p> <p>1.Accessibility, including digital accessibility;</p>	ACCAN supports the drafting in principle, however in absence of further drafting, cannot comment substantively on this drafting		<p>Noted. Key new or substantially changed clauses have been our focus for this part of the process, but the iterative drafting process for further drafting will provide stakeholders with further opportunities to review provisions in context. As per the Position Paper, further detail was proposed in a guideline which would focus on assisting CSPs understand what is required under the DDA - which is the higher order regulatory instrument, compulsory and economy-wide (and the DDA guidance is currently not fit-for-purpose). Given it has now been announced that the DDA is finally updating its own guidance in this space, it might be more appropriate to reference that guidance (given any actions are not telco-specific) - but see comments on the proposal - CV to draft a guideline on accessibility.</p>	<p>Note included in guidance as a place holder:</p> <p>CSPs should also have regard to guidance on meeting the DDA published on the Human Rights Commission's website. [drafting TBC pending these updates, which CA understands are expected in 2024.]</p>

Accessibility					
Org.	Issue	Comment	Suggested change to drafting (if applicable)	DC Comment	How it has been addressed
				Either way, we are proposing adding appropriate referencing to the Code to point CSPs to material to help them understand their obligations under the DDA and develop the appropriate policies and processes to ensure they are meeting their obligations. A draft guidance box has been included to show how this might be appropriately referenced - pending further advice (see column right).	
Industry	Chapter 4 drafting above. Need clearer guidance about what accessibility means in this context.			Will be clearer as drafting evolves - work in progress.	
ACCAN	<p>Chapter 3 - Organisational culture, policies, training, and governance</p> <p>Proposal – CA to draft a guideline on accessibility.</p> <p>This would provide more detail on expectations, including in relation to inclusive design, and links to relevant references.</p> <p>This would likely be something that we would need to tackle after Code registration, which would allow it to appropriately reference expected new guidance on the DDA.</p> <p>Guidance – best practice: inclusive design</p>	<p>ACCAN considers that CSPs, when developing new customer applications / billing platforms / portals / etc., ensure that the products conform with AS EN 301 549 and WCAG. This ensures a more accessible experience by design for consumers.</p> <p>ACCAN considers that for CSPs with physical locations consider the Design for Dignity guidelines which cover off on access to built</p>		<p>Re the physical location issue, we think this would be appropriate material for the proposed Guideline.</p> <p>Re inclusive design, this is a best practice concept, which is why it is included as guidance.</p>	Review this feedback again when developing Guideline

Accessibility					
Org.	Issue	Comment	Suggested change to drafting (if applicable)	DC Comment	How it has been addressed
	<p>Inclusive design does not suggest that it is always possible (or appropriate) to design one product to address the needs of the entire population. Instead, inclusive design guides an appropriate design response to diversity in the population through:</p> <ul style="list-style-type: none"> • developing a family of products and derivatives to provide the best possible coverage of the population. • ensuring that each individual product has clear and distinct target users. • reducing the level of ability required to use each product, in order to improve the user experience for a broad range of customers, in a variety of situations. <p>Specialist solutions may still be required to satisfy the needs of those with particular vulnerabilities or needs.</p> <p>Reference and for more information: University of Cambridge Inclusive Design Toolkit.</p>	<p>premises, meeting rooms, toilets etc. https://and.org.au/wp-content/uploads/2021/10/Design_for_Dignity_Guidelines_Aug_2016.pdf</p> <p>ACCAN considers that this concept not only be introduced into the guidance and also be introduced as a mandatory requirement in the code.</p>			
ACCAN	<p>Proposal – CA to draft a guideline on accessibility.</p> <p>This would provide more detail on expectations, including in relation to inclusive design, and links to relevant references. This would likely be something that we would need to tackle</p>		<p>ACCAN would welcome further drafting on this and cannot comment on this section in its absence.</p>	<p>Comments were provided in the circulated draft position paper on timing and content.</p> <p>We would consult separately on that Guidance doc when</p>	

Accessibility					
Org.	Issue	Comment	Suggested change to drafting (if applicable)	DC Comment	How it has been addressed
	after Code registration, which would allow it to appropriately reference expected new guidance on the DDA.			drafting.	

Code structure, measurements of success and reporting					
Org.	Issue	Comment	Suggested change to drafting (if applicable)	DC Comment	How it has been addressed
TIO	<p>1.Introduce a Code structure where each chapter sets out:</p> <ul style="list-style-type: none"> • required outcomes for consumers • High level expectations about what RSPs are required to do to ensure the consumer outcomes are realised • The code rules for the chapter • Measures of success that need to be recorded and reported to measure whether the high-level outcomes and rules are being complied with. (The Drafting Committee has not provided further detail or drafting for the Measures of Success) <p>1a. Under the proposal, the Measures of Success would need to be reported through:</p> <ul style="list-style-type: none"> • Public reporting • Risk management processes, and • the CommCom attestation process <p>1b. The intention is for the public reporting to be in a simple, easy-to-read format, to provide transparent and comparable measurements for industry, regulators and consumers. The format would</p>	<p>Extra reporting obligations are good for transparency and to help consumers make an informed choice about their telco.</p> <p>However, we cannot comment without more detail about how the proposed obligations will work.</p>	<p>We will need to see fuller drafting in context before commenting further.</p>	<p>Noted.</p>	<p>No changes.</p>

Code structure, measurements of success and reporting					
Org.	Issue	Comment	Suggested change to drafting (if applicable)	DC Comment	How it has been addressed
	<p>remain constant throughout the life of the TCP Code.</p> <p>1c. The proposed risk management process reporting would require each telco to record and monitor compliance with key clauses of the code, to be available for the ACMA to request where there is evidence that the desired consumer outcomes are not being met.</p>				
ACCAN	<p>Issue</p> <p>Identified consumer (and regulator) problem. Finally, submissions suggested insufficient knowledge or understanding of the independence and value of the independent attestation process to drive compliance by industry.</p>	<p>This point is noted, but the key issue raised is lack of transparency/detail around the operation of the attestation process.</p> <p>Re: review of CIC reporting, is there any detail as to when capacity may be sufficient to allow review. ACCAN raises this as there is a fairly significant amount of policy work slated for next year and progressing the review is critical to strengthening the operation of the code.</p>		<p>Noted, a review of transparency will form part of the substantive drafting of new MoS under the new code in 2024. Note the shift to greater public reporting requirements.</p>	<p>No changes.</p>
ACCAN	<p>Proposal - Measures of Success (MoS) in the TCP Code</p> <p>To demonstrate Code outcomes and expectations are being</p>	<p>ACCAN considers that more information should be provided about the nature of process metrics</p>		<p>Noted, further detail will form part of the substantive drafting of new MoS under the draft Code in 2024. Note the shift to</p>	<p>No changes.</p>

Code structure, measurements of success and reporting					
Org.	Issue	Comment	Suggested change to drafting (if applicable)	DC Comment	How it has been addressed
	<p>achieved, CSPs must be able to produce:</p> <ul style="list-style-type: none"> • process metrics - policies and/or supporting materials; and • effectiveness metrics - reporting and/or data. <ul style="list-style-type: none"> ◦ For example, the current CiC report is an effectiveness metric. 	<p>and measures of success. ACCAN supports in principle more transparency in reporting on code compliance. In ACCAN's view, the details of the MoS should be subject to further consultation with the TIO, ACMA and ACCAN to ensure that the measures reflect the TCP Code provisions and provide a fit for purpose framework for consumer comparison.</p>		<p>greater public reporting requirements.</p>	
ACCAN	<p><u>Public Reporting, customer service metrics relevant to the Code</u></p> <p>A requirement would be included for public reporting of a set of customer service performance indicators relevant to the TCP Code. The PR metrics would seek to demonstrate performance by CSPs against Code outcomes and expectations in a simple, easy-to-read format, to provide transparent and comparable measurements for industry, regulators, and consumers. It expands requirements in the current Code under clause 4.7 to issues beyond complaints.</p> <p>The intention is to have an agreed format report – tied to the TCP Code – that remains</p>	<p>ACCAN queries what actions will be taken through the Code review process to review and strengthen enforcement outcomes. ACCAN would seek clarification from the DC on the incentives and sanctions in place or developed as part of this code review to drive compliance outcomes. ACCAN does not consider mechanisms which solely rely on reputational costs to drive their effectiveness as a fit-for-purpose compliance mechanism.</p>		<p>Please note CA position paper on regulatory reform.</p> <p>The updated MoS do not only go to reputational risk through public reporting - the shift to a clear hybrid structure is intended to create clearer expectations on CSPs and direct avenues for compliance activity.</p>	<p>No changes.</p>

Code structure, measurements of success and reporting					
Org.	Issue	Comment	Suggested change to drafting (if applicable)	DC Comment	How it has been addressed
	constant throughout the life of the TCP Code. It would be changed only if there's a problem, or when the Code is reviewed. This makes data collection more efficient and allows comparison year-by-year.				
ACCAN	<p><u>Public Reporting, customer service metrics relevant to the Code</u></p> <p>Identifying meaningful and comparable data is no simple task and specific metrics to be included cannot be meaningfully identified until drafting has further progressed on each chapter.</p>	The lack of detail around customer service performance indicators limits ACCAN's ability to comment on this section of the proposed approach. ACCAN considers that any developed customer service performance indicators should be subject to consultation and be material to the consumer telecommunications experience.		Noted, further detail will form part of the substantive drafting of new MoS under the draft Code in 2024.	No changes.
ACCAN	<p><u>Risk Management Process (RMP) reporting</u></p> <p>Each CSP would be required to record and monitor compliance with key clauses of the Code through an RMP, to be requested by the ACMA where there is evidence that the desired consumer outcomes are not being met.</p> <p>See Schedule 4 – Internet Carriage Services Online Safety Code (Class 1A and Class 1B Material), MCM 10 for a current example of this reporting</p>	ACCAN considers that there is scope to use RMP reporting as a more stringent form of enforcement when concerning key consumer protections. ACCAN would encourage CA to review the TCP code submissions of the TIO, ACCC and ACMA to identify key areas of non-compliance and inform their assessment of RMP reporting clauses. ACCAN supports RMP		Noted, further detail will form part of the substantive drafting of new MoS under the draft Code in 2024, including which MoS are publicly reported.	No changes.

Code structure, measurements of success and reporting					
Org.	Issue	Comment	Suggested change to drafting (if applicable)	DC Comment	How it has been addressed
	method	reporting being made public in order to ensure that consumers are fully informed regarding compliance and can take action to drive competition on service outcomes.			

Credit/Debt management (including restriction, suspension, and disconnection)					
Org.	Issue	Comment	Suggested change to drafting (if applicable)	DC Comment	How it has been addressed
ACCAN	<p>Issue: <i>Identified consumer concerns.</i></p> <p><u>Confusion</u> Customers do not understand the difference between</p> <ul style="list-style-type: none"> debt management processes for restriction/suspension/disconnection which apply to post-paid services (where there is a debt), and processes relating to non-payment (for example, where an automatic payment is missed) for upfront payment plans 	<p>ACCAN notes that confusion around these processes is an issue faced by consumers. Feedback from consumers indicates that provider's communications to consumers often makes distinguishing between these processes difficult and is an area of potential further improvement by industry.</p>		<p>We agree. Industry is working to address any customer confusion across the customer journey. We are including relevant plan information as outlined in Essential Information Position Paper, Selling Practices, to ensure clear communication of the difference between plan types and consequence of non-payment.</p>	<p>No change at this point.</p>
ACCAN	<p>Proposed Approach Summary:</p> <p>New Obligation to: 3. Provide additional information for suspension notices to include notice to the customer that consequences for ultimately failing to pay the debt could result in the debt being referred to a debt collection agency (if relevant), and to highlight seriousness of situation.</p>	<p>Notwithstanding the FH standard is still subject to consultation, ACCAN supports suspension and disconnection notices providing the details of TIO and the national debt helpline.</p>		<p>We consider there are practical issues with, and the potential for creating confusion by, including TIO details and the national debt helpline (alongside the already included link to the Financial hardship policy) on suspension and disconnection notices. We have explained these in our Credit and Debt Management Agreed Position Paper. On a practical level, some notice mediums (e.g. SMS) are practically constrained by space. With all mediums we are seeking to strike a balance between providing a concise and clear indication of intended credit management action and consequences to prompt a conversation, and inform customers of options, including</p>	<p>No change at this point. We understand that this is a contentious issue. If the ACMA is concerned about our approach, we would appreciate the opportunity to work with the ACMA to agree an acceptable approach.</p>

Credit/Debt management (including restriction, suspension, and disconnection)					
Org.	Issue	Comment	Suggested change to drafting (if applicable)	DC Comment	How it has been addressed
				financial hardship help, to avoid the action. We are concerned that adding to the already extensive information requirements in notices by including the TIO and national help line details, will cause customer confusion without also providing sufficient context that a customer should raise a complaint with the CSP first. This will drive more calls to the TIO which will be redirected to the CSP to raise a complaint.	
ACCAN	<p>Proposal – New obligations to keep customers connected/not disconnect customers that the CSP has identified as being affected by Domestic or Family Violence or impacted by a natural disaster (adopting approach in the future FH Standard)</p> <p>Guidance Disconnection Disconnection protection may include mirroring protections or safeguards for financial hardship customers. Responses to DFV must be consumer-led; the DFV-affected person knows best how to keep themselves safe. While most DFV-affected consumers are likely to prioritise maintaining connection, there may be occasions where they choose to disconnect a service. CSPs should refer to their DFV policy and Communication Alliance's Industry Guideline G660 for further detail</p>	<p>ACCAN supports in principle, the DC's intent to be consistent with the future financial hardship standard. ACCAN considers that consumers who have indicated that they are experiencing or are likely to experience DFV should not be subject to credit management action due to the nature of consumer vulnerability. Additionally, consumers who have indicated they are experiencing or are likely to experience DFV should not be disconnected from their telecommunications service by their provider.</p>		<p>We understand the perspective and protecting customers experiencing DFV is important. However, extending protections to include customers who are 'likely to be experiencing DFV' is broad and would be difficult to implement.</p> <p>Proposals include introducing a new obligation not to disconnect customers/keep customers connected who are identified as experiencing DFV specifically, which should address your concerns. We note that there will also be relevant protections afforded under the Financial Hardship Standard generally for those in vulnerable circumstances, which is likely to apply in practice to most customers experiencing DFV.</p>	No change at this point.

Credit/Debt management (including restriction, suspension, and disconnection)					
Org.	Issue	Comment	Suggested change to drafting (if applicable)	DC Comment	How it has been addressed
	and guidance.] See also position paper: Domestic and Family Violence				
ACCAN	<p>Proposal – New obligation to reconnect customers disconnected in error or without required notice</p> <p>Sample drafting <u>Chapter 9: Credit management, debt management and disconnection (TBD)</u></p> <ol style="list-style-type: none"> 1. Where a customer's telecommunication service has been disconnected in error, the CSP must reconnect the service. 2. Where a telecommunications service has been disconnected without the required notification [refer to the notices required], the CSP must reconnect the service, unless the customer advises that they do not wish the CSP to do so. 3. CSPs must keep accurate records of the customer's indication. 	<p>ACCAN considers that the CSP should make the customer aware of the nature of the accidental disconnection when their service has been reconnected through an accessible communication method. This would ensure that consumers are aware that the reason for their disconnection was accidental and that their provider has acknowledged it as such. Additionally, CSPs should be mandated to provide guidance to customers on how customers may achieve compensation due to suffering losses as a result of an accidental, incorrect disconnection.</p> <p>ACCAN considers that records should be kept of accidental disconnections and reconnections, with reporting of these cases as part of the MoS framework.</p>		Noted. We will consider this further in discussions on Metrics.	No change at this point.

Credit/Debt management (including restriction, suspension, and disconnection)					
Org.	Issue	Comment	Suggested change to drafting (if applicable)	DC Comment	How it has been addressed
ACCAN	<p>Proposal – New obligation to require suspension notice to include, if relevant, reference to potential referral of debt and for suspension notice and disconnection notice, highlight seriousness of situation.</p> <ul style="list-style-type: none"> The DC will include an additional information requirement that, if relevant, suspension notices must include notice to the customer that failing to pay the debt could result in the debt being referred to a debt collection agency. Note: <ul style="list-style-type: none"> 'If relevant' ensures that customers are not sent information about action that the CSP will not take (for more details, see submission table). This requirement currently exists for disconnection notices only. This sits alongside the existing requirement to outline/refer to the CSP's financial hardship policy. 	<p>ACCAN considers that there should be a requirement on providers to ensure that suspension notices are reflective of the requirements of providers as part of the FH standard. Providers should be required to include links to the TIO, National debt helpline and Financial Counselling Services on any proposed suspension notices. Customers should be provided with assistance located in the suspension and disconnection notice related to how to dispute debts that may be as a result of economic abuse. ACCAN considers that suspension notices must require that the telecommunications providers provide the consumer with accessible links to the providers' domestic and family violence policy, the TIO, the national debt helpline and to relevant financial counselling services.</p>	<p>require that the telecommunications providers provide the consumer with accessible links to the providers' domestic and family violence policy, the TIO, the national debt helpline and to relevant financial counselling services.</p>	<p>Noted. See above comments regarding including TIO and debt helpline details. Further, we note that links are recognised as an increasingly poor way to direct customers within communications in light of increased scam activity.</p> <p>Economic abuse is specifically recognised in DFV guidelines, and we consider there is limited utility in including specific information about debt disputes that may be as a result of economic abuse in the notices.</p>	<p>No change at this point. We understand that this is a contentious issue. If the ACMA is concerned about our approach, we would appreciate the opportunity to work with the ACMA to agree an acceptable approach.</p>

Credit/Debt management (including restriction, suspension, and disconnection)					
Org.	Issue	Comment	Suggested change to drafting (if applicable)	DC Comment	How it has been addressed
ACCAN	<p>Proposal – New obligation to require suspension notice to include, if relevant, reference to potential referral of debt and for suspension notice and disconnection notice, highlight seriousness of situation.</p> <ul style="list-style-type: none"> The DC notes concerns that communications can be threatening and the debt collection process intimidating. However, on balance, it considers there is benefit of a notice at suspension stage, before progressing to disconnection notice, to highlight potential consequences of customer inaction. This would provide an opportunity to encourage the customer to have a conversation with their CSP about their circumstances and needs, which may lead to the customer accessing the CSP's financial hardship policy. 	ACCAN considers that suspension and disconnection notices should be drafted with significant regard to consumer vulnerabilities. Consumers being disconnected or suspended from their service is likely a result of the consumer experiencing financial hardship. The DC should ensure that any suspension notice, and disconnection notice makes the consumer aware of the providers' financial hardship arrangements and aligns with the financial hardship standard.		See above comments which should address your concerns.	No change at this point.
ACCAN	<p>Proposal – New obligation to require suspension notice to include, if relevant, reference to potential referral of debt and for suspension notice and disconnection notice, highlight seriousness of situation.</p> <p>Sample Drafting [Drafting note: We propose to draft separate clauses for each of the restriction, suspension or disconnection notices</p>	ACCAN considers that disconnection notices should include accessible links to a provider's domestic and family violence policy, the TIO, the national debt helpline and financial counselling services. (In addition to the link to the financial hardship policy required by 6.7.5 of the TCP code	require that the telecommunications providers provide the consumer with accessible links to the providers' domestic and family violence policy, the TIO, the national debt helpline and to relevant financial counselling services.	<p>As noted above, providing links within communications can be problematic.</p> <p>Disconnection notices already require a significant amount of information. However, if the ACMA considers that inclusion of a reference to (rather than a link, as that has security risks) DFV policy would be a helpful addition and lead to better consumer outcomes, we</p>	No change at this point.

Credit/Debt management (including restriction, suspension, and disconnection)					
Org.	Issue	Comment	Suggested change to drafting (if applicable)	DC Comment	How it has been addressed
	<p>to make it clear what is required for each type of notice.]</p> <p><u>Clauses:</u> A Disconnection notice [where required] must include: 1. (a)...[retain current content requirements in 6.7.5 a, b, and d]</p> <p><i>Amendments in red</i> (c) about the consequences of non-payment, including that the Customer's default leading to the Disconnection may be disclosed to a Credit Reporting Body and/or collection agency and/or debt buyer and may be added to the Customer's credit file with a Credit Reporting Body;</p>	mentioned above).		would be open to discussing this.	
ACCAN	<p><i>Other DC Considerations</i></p> <ul style="list-style-type: none"> • Spend management tools - whether it is possible for CSPs to send usage notifications more promptly than the 'no later than 48 hours' currently required. However, it is not technically feasible to ensure that usage notifications are sent within the hour, as proposed in some submissions. It also is not feasible to decrease this time in all cases to less than 48 hours. This is because, while many usage notifications will be sent within a day or less, some usage notifications are not able to be sent until later due to time lags in CSPs receiving some data (such as potential delays 	ACCAN considers that through the CIS or essential information communications, that these technical limitations should be clearly communicated to consumers		The DC will review requirements to ensure such limitations are appropriately communicated to consumers. We believe that this is already happening, in practice in relevant contractual terms.	No change at this point.

Credit/Debt management (including restriction, suspension, and disconnection)					
Org.	Issue	Comment	Suggested change to drafting (if applicable)	DC Comment	How it has been addressed
	receiving data from other network operators when a customer is roaming).				
ACCAN	<p>Proposal - other updates to take into account comments made in industry submissions:</p> <ul style="list-style-type: none"> • Restrict, suspend and disconnect services without notice - Clause 6.7.1(a) allows CSPs to restrict, suspend and disconnect services without notice in certain circumstances. These circumstances are clearly defined and are intended to protect the consumer and other telecommunications users – (e.g. where the CSP reasonably suspects fraud, or where the service is suddenly being used in a way that is running up excessively high charges and immediate action is required to prevent the customer incurring a large debt). The DC considers that the exceptions are necessary and appropriate, as the benefits provided by protecting telecommunications users outweigh concerns the clause could be used as a 'loophole' to restrict, suspend or disconnect customers without notice. The DC also notes that it is not in the interests of CSPs to restrict, suspend or disconnect customers without notice without good reason, as this would be a poor consumer experience. 	<p>ACCAN would appreciate further clarification related to the protection that consumers receive from this provision.</p> <p>ACCAN considers that a requirement for notice to be provided in the case of restriction, suspension and disconnection is reasonable and supports an improved customer experience.</p>		<p>This is explained in the Agreed Position Paper. We are unsure what further information would be useful to ACCAN. If ACCAN (or others) would like further information, we would be happy to arrange a briefing.</p>	No change at this point.

Credit/Debt management (including restriction, suspension, and disconnection)					
Org.	Issue	Comment	Suggested change to drafting (if applicable)	DC Comment	How it has been addressed
ACCAN	<p>Proposal – See above</p> <ul style="list-style-type: none"> • Restrict, suspend and disconnect services without notice - The DC has considered whether there is benefit to requiring that there be some form of communication to the customer that their service will be restricted, suspended or disconnected in the limited circumstances set out in clause 6.7.1(a). However, the DC considers that this is likely not feasible nor beneficial given the aims of the section to prevent consumer harm. 	ACCAN considers that in the event that providers wish to use this provision, that appropriate records are kept so that disconnections that form the subject of a dispute can be investigated by the TIO and ACMA.		We consider there are already sufficient requirements to keep appropriate records of disconnections that may form the subject of a dispute. The ACMA or TIO are already able to investigate disputes, should they have concerns about how this clause is being used.	No change at this point.
ACCAN	Not including TIO's details on credit management notices - Suggested amendments to restriction, suspension and disconnection notices - The DC reviewed notice requirements to consider how to best convey the importance of the consumer contacting their CSP to discuss their needs and circumstances, and the relevant consequences if they do nothing. To achieve this, notices need to be focused on key information only. The DC remains of the view that, on	ACCAN: ACCAN considers that including the TIO's details in restriction, suspension and disconnection notices does not risk confusing consumers if properly articulated. For example, notices could list the TIO as a point of dispute resolution if internal dispute resolution has not progressed an adequate outcome for consumers.		Refer to previous comments regarding including TIO information on notices.	No change at this point.

Credit/Debt management (including restriction, suspension, and disconnection)					
Org.	Issue	Comment	Suggested change to drafting (if applicable)	DC Comment	How it has been addressed
TIO	balance, it is better to focus only on the key messages and not specifically include the TIO's details in the body of the restriction, suspension, or disconnection notices.	TIO: Our recommendation that the TIO's contact details be included on credit management notices has not been adopted. This is a missed opportunity to ensure consumers are aware they can contact us for help and that disconnection is genuinely a last resort. This approach is already in place in other essential services.	TIO: The Code should require telcos to include information about the TIO, including our telephone number and web address on all reminder, barring, suspension and disconnection notices (recommendation 21 from our submission).	Refer to previous comments regarding including TIO information on notices.	No change at this point.
TIO	Proposal - new obligation to reconnect consumers' services where the services were disconnected in error or in contravention of notice requirements.	Welcome the obligation to reconnect consumers' services where the services were disconnected in error or in contravention of notice requirements. This aligns with recommendation 18 from our submission to the Code Review. However, we would like further detail about which notice requirements the obligation will refer to, and we are concerned there are no mandatory timeframes for reconnection.		Noted. We will be addressing this through more detailed drafting.	Will be addressed once we get into the more detailed drafting.

Credit/Debt management (including restriction, suspension, and disconnection)					
Org.	Issue	Comment	Suggested change to drafting (if applicable)	DC Comment	How it has been addressed
TIO	Proposal – New obligation to reconnect customers disconnected in error or without required notice	The proposed obligation to reconnect should apply to all disconnections in contravention of disconnection notice requirements and all other erroneous disconnections. It should also specify a mandatory timeframe for reconnection.		We agree in principle that there should be reconnection (where the customer wants it) in a timely period, where there was an error by the CSP or where a disconnection notice was missed. We need to work through the detail to work out how to best reflect this intent. We will consider further whether specifying a mandatory timeframe is practicable and useful.	No change at this point. Will be considered further once we get into the more detailed drafting.
TIO	Proposal - new obligation to keep consumers affected by DFV or natural disasters connected	New obligation to keep consumers affected by DFV or natural disasters connected is good in principle, but further detail could be provided in the drafting. We would like to see the final drafting showing how the DFV/natural disaster obligations will work and when they will apply.		Noted. We will be addressing this through more detailed drafting.	Will be addressed once we get into the more detailed drafting.
TIO	Proposal – New obligation to require suspension notice to include, if relevant, reference to potential referral of debt and for suspension notice and disconnection notice , highlight seriousness of situation.	In general, the proposed credit management notice requirements could be further strengthened. The notice period remains unchanged for traditional post-paid services (at 5 working days) and is around 3-4 days for the proposed automatic payment reminder notices.	The Drafting Committee should strengthen the notice requirements so that at a minimum, telcos are required to send a disconnection warning notice, followed by a separate disconnection notice before disconnecting (recommendation 20 from our submission).	We understand the TIO's perspective regarding strengthening credit management notice requirements by extending the notice periods. It would seem reasonable to move to a longer minimum notice period before disconnection. We will consider this in more detail in the drafting stage whether and how best to reflect this intent. We consider there is limited utility in adding a further warning notice of	No change at this point. Will be considered further once we get into the more detailed drafting.

Credit/Debt management (including restriction, suspension, and disconnection)					
Org.	Issue	Comment	Suggested change to drafting (if applicable)	DC Comment	How it has been addressed
				disconnection to the credit management process and to do so would risk overloading and confusing consumers.	
TIO	Proposal – See above.	We remain concerned the rules proposed in the Payment Methods and Credit/Debt Management position papers are unlikely to fully meet the Outcomes and Expectations of the chapter. In our view, the proposed notice periods telcos would be required to observe before taking credit management action (which remain largely unchanged from provisions in the current Code) are not sufficient to ensure disconnection occurs only as a last resort.		See above comments which should address your concerns.	Will be considered further once we get into the more detailed drafting.
TIO	Outcomes I. Customers are notified of potential credit and debt management activity. II. Customers are informed of the consequences of non-payment for telecommunications products, including the restriction, suspension and disconnection of telecommunications services. Expectations I. CSPs will have processes for restriction, suspension and	The Outcomes and Expectations listed in Chapter 9 of the draft Outline appear to largely align with our feedback about the need for more robust credit management processes that give consumers sufficient notice about credit management action against them. We especially welcome the inclusion of the expectation that telcos	In our view, the Chapter should also list the desired outcome that consumers are only disconnected as a last resort. This would ensure the focus remains on telcos' conduct in completing credit management processes, rather than on their broader policies.	We note the suggested emphasis. We explicitly and deliberately capture that telcos will treat disconnection as a last resort in our Expectations rather than in outcomes. The outcomes are intended to be broad, and we are not sure adding it to the outcomes is necessary nor adds value through repetition.	No change at this point.

Credit/Debt management (including restriction, suspension, and disconnection)					
Org.	Issue	Comment	Suggested change to drafting (if applicable)	DC Comment	How it has been addressed
	<p>disconnection for non-paying customers not in financial hardship.</p> <p>II. CSPs will provide sufficient notice to customers about credit and debt management activity, including suspensions, restrictions, disconnections, and referrals to debt collection agencies.</p> <p>III. CSPs will treat disconnection as an option of last resort.</p>	<p>will treat disconnection as a last resort, as this recognises the essential nature of telecommunications services.</p>			
TIO	<p>Proposal - New obligations to provide clear information for all plan types about the consequences of missed automatic payments</p> <p>The issues raised in submissions would appear to relate to confusion about the difference in payments and processes related to all plan types, but particularly where an upfront payment service may be supplied in conjunction with a device on a payment plan that would be considered a debt. New information-provision requirements would address this. See payments paper and essential information paper.</p> <p>Notes:</p> <ul style="list-style-type: none"> • All types of prepaid plans have significant financial management benefits for the consumer, as there is no capability for a customer to incur debt and end up in debt management processes relating 	<p>It appears the intention of the sample drafting is for the standard restriction, suspension, and disconnection notice requirements not to apply to 'upfront' or 'subscription-based' services. Instead, the sample drafting has proposed requirements for telcos to send 'reminder notices' for upcoming direct debit payments, and for missed automatic payments.</p> <p>These requirements alone are unlikely to:</p> <ul style="list-style-type: none"> • stop failed direct debits leading to suspension, restriction or disconnection of services • to avoid where a failed DD leads to a consumer being 	<p>The requirements do not place clear, positive obligations on telcos to issue warning notices or investigate the cause of failed direct debits, before acting to restrict, suspend or cancel a service.</p> <p>We reiterate our recommendation that telcos should be required to send a disconnection warning notice, followed by a separate disconnection notice, before disconnecting a service for credit management reasons</p>	<p>Our focus was to draw particular attention to the disconnection notice (see details in the Agreed Position Paper). The suggestion to extend the timeframe for the disconnection notice may sufficiently address this concern and very strongly encourage consumers to take action.</p> <p>As noted above, when we review the content of the new proposed reminder notices, we will consider these comments further. We believe these will address these concerns.</p>	No change at this point.

Credit/Debt management (including restriction, suspension, and disconnection)					
Org.	Issue	Comment	Suggested change to drafting (if applicable)	DC Comment	How it has been addressed
	<p>to the plan's telecommunication services.</p> <ul style="list-style-type: none"> • Reminder notices for missed automatic payments have been discussed in the paper on 'Payments' and will be included in the Payments chapter of the TCP Code. This includes the proposal that there be a formal requirement for reminder notices for missed automatic payments. • See also the 'Essential information' paper on the provision of information about the nature of service and bundled products during a sale. 	required to pay out their device contract in full immediately.			

Credit Assessment					
Org.	Issue	Comment	Suggested change to drafting (if applicable)	DC Comment	How it has been addressed
ACCAN	Proposal – credit management, debt risk A new obligation would consider the risk of financial harm to residential consumers - a risk of a debt or default listing where the potential debt may be \$150 or more, in line with the Privacy (Credit Reporting) Code 2014.	ACCAN supports in principle the establishment of a new obligation for providers to consider the risk of financial harm to consumers where the potential debt may be equal to or exceeding \$150.		Support noted	No changes
ACCAN	Proposal – credit management, debt risk Sample drafting <u>Chapter 6 – Responsible selling: Sales, contracts and credit assessments: Assess capacity to pay and manage debt, existing postpaid customers [update cl 6.1]</u> 1. Before entering a contract with a new residential consumer or an existing residential prepaid customer, a CSP must complete a credit assessment if the contract may result in a debt owed by the consumer equal to or greater than \$150.	ACCAN supports this provision in principle and would recommend its extension to existing customers who have previously held debt with the provider. This provision should extend to existing prepaid customers and existing customers who have held debt with the provider (such as a contract with the provider in the past).		Protections for existing postpaid customers are captured in the 'existing customers' clauses, it would be confusing and duplicative to include them in the new postpaid customer protections.	No changes
ACCAN	Proposal – credit management, debt risk Sample Drafting <u>Chapter 6 - Responsible selling: Sales, contracts and credit assessments: Assess capacity to pay and manage debt, existing postpaid customers [update cl 6.1]</u> 2. A credit assessment must	ACCAN considers that a credit assessment must additionally include more detailed requirements in relation to the examples provided for the existing criteria under 2(a)(iii). ACCAN considers that under this clause, providers should be required to take into		Different risks occur based on different product types. CSPs must have the ability to modify their credit assessment to match that risk - i.e. there is a difference between a 12 month service contract and a 36 month mobile payment plan for a \$1800 device. The detail of the credit assessment needs to be proportionate to the risk	No changes

Credit Assessment					
Org.	Issue	Comment	Suggested change to drafting (if applicable)	DC Comment	How it has been addressed
	<p>include:</p> <p>a. consideration of the consumer's financial circumstances. This may include:</p> <p>iii. Affordability indicators (e.g. income, age, time at current address, residential status, data held within credit file, financial hardship indicators, general expenses, telecommunication expenses);</p>	<p>account all of the factors listed including income, age, time at current address, residential status, data held within current file, financial hardship indicators, general expenses and telecommunications expenses. The code should explicitly require the consideration of these provisions rather than use them as an example.</p>		<p>to customer and CSP, while having some baseline consistency.</p>	
ACCAN	<p>Proposal – credit management, debt risk</p> <p>Sample Drafting <u>Chapter 6 - Responsible selling: Sales, contracts and credit assessments: Assess capacity to pay and manage debt, existing postpaid customers [update cl 6.1]</u></p> <p>2.A credit assessment must include:</p> <p>a) Where the customer is seeking to increase their current credit limit with their CSP, a new external credit check from a credit reporting body. A CSP must gain the consumers consent to request a new check.</p> <p>Guidance - Calculating Potential Debt</p>	<p>ACCAN considers that where the customer is seeking to increase their current credit limit with their CSP, a new internal and external credit check should be required explicitly by the code provisions.</p>		<p>This is required in the current drafting - a credit assessment including an external credit check is required where the consumer seeks to increase their current credit limit</p>	<p>No changes</p>

Credit Assessment					
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ACCAN	<p>Guidance: evidence of financial circumstances</p> <p>CSPs should not require evidence from the consumer about their financial circumstances unless the CSP can demonstrate a risk proportionate to the risk of collecting personal information.</p> <p>Evidence may be required where the consumer has a poor credit history, previously declined credit assessments or where a consumer is seeking to overturn a declined credit assessment.</p>	ACCAN considers that this should be amended.	Amendment: CSPs must not require evidence from the consumer about their financial circumstances unless the CSP can demonstrate to the consumer a risk proportionate to the risk of collecting the personal information.	The purpose of this guidance is for CSPs to consider the risk of collection of PII, not guidance on consumer disputes about collection.	No changes
ACCAN	<p>Proposal - Outcome of failed credit assessment</p> <p>Sample Drafting</p> <p>1. Following a credit assessment, if a CSP concludes that a consumer does not qualify for the requested telecommunications product, the CSP must:</p> <ol style="list-style-type: none"> advise the consumer that their credit assessment was declined; and provide the consumer with information about alternate telecommunications products that may meet their requirements. <p>Guidance - Add guidance on</p>	ACCAN considers that this requirement should be amended.	<p>Amendment: provide the consumer with information about alternative telecommunications products and services that the provider has determined will meet their requirements in accordance with the outcome of the credit assessment.</p> <p><u>The guidance note should be updated to show:</u> Upon the result of a failed credit assessment, consumers must not be directed to a product or service unless the provider is certain that the consumer will pass the affordability assessment for the product or service.</p>	<p>Agreed in concept to the recommendations.</p> <p>The Guidance has not been drafted, so we can incorporate this language once drafted.</p>	<p>New (b)</p> <p>provide the consumer with information about alternate telecommunications products that the CSP has determined may meet their requirements in accordance with the outcome of the credit assessment.</p>

Credit Assessment					
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	'alternative telecommunications products', including prepaid services or low-cost options				
TIO	(overarching)	<p>Credit assessments</p> <p>We have previously highlighted the importance of credit assessments considering a consumer's living expenses and existing debts. While the proposal lists 'general expenses' and 'telecommunications expenses', we support explicit language that requires consideration of a consumer's living expenses and existing debts (with limited collection of data) to ensure telcos assess the full picture of a consumer's capacity to pay.</p> <p>On our review, the draft package also does not appear to ensure that credit assessment rules apply equally to consumers. It appears that there is a list of what must be considered in a credit assessment for a new customer or existing prepaid customer, but several of the criteria to consider are optional for credit assessments for an existing customer.</p>		<p>As noted in the paper, credit assessment is part of the responsible selling framework.</p> <p>As noted in the paper, CSPs only have access to negative external credit checks and are unable to see positive credit information that may be on a customer's file.</p> <p>To address this issue, we have introduced the concept of 'affordability indicators'. As noted above, these must be flexible, to enable CSPs to adjust based on the risk of the product the consumer is seeking to purchase.</p> <p>We need to balance a customer's privacy and reasonable information gathering, with an assessment of capacity to pay.</p>	No changes

Credit Assessment					
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TIO	<p>Proposal - Outcome of failed credit assessment Where a residential consumer fails a credit assessment, the current cl 6.1.2 would result in the residential consumer being directed to a more appropriate telecommunications product that better suits their financial circumstances. No updates to the function of this clause are recommended, however the clause will be updated in line with the simple English updates.</p> <p>Sample drafting <u>Chapter 6 - Responsible selling: Sales, contracts and credit assessments: Declined credit assessment, [update cl 6.1.2]</u></p> <p>1. Following a credit assessment, if a CSP concludes that a consumer does not qualify for the requested telecommunications product, the CSP must:</p> <ol style="list-style-type: none"> advise the consumer that their credit assessment was declined; and provide the consumer with information about alternate telecommunications products that may meet their requirements. <p>Guidance - Add guidance on 'alternative telecommunications</p>	<p>The current position and sample drafting does not appear to address other key concerns noted by the ACMA that we share. For example, the ACMA noted under the current TCP Code there is only an obligation to advise consumers they are unlikely to afford a service if a credit check determines this, but there is no obligation on the telco to only sell a cheaper alternative. The sample drafting does not appear to address this, as the updated clause 6.1.2 also does not include an obligation to only sell a cheaper alternative.</p>		<p>We will update the language for the draft 'declined credit assessment' clause.</p>	<p>Updated language in line with ACCAN's more specific recommendations</p>

Credit Assessment					
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	products', including prepaid services or low-cost options				
Industry	Requirement for staff to collect additional information from consumers for the purpose of credit assessments.	Increasing the requirement to collect information will be a physical risk for frontline staff in retail (as was the case with the introduction of MFA, where there was an increase in physical altercations in retail stores).		Noted	No changes
Industry	<p>Proposal – credit management, debt risk A new obligation will consider the risk of financial harm to residential consumers - a risk of a debt or default listing where the potential debt may be \$150 or more, in line with the Privacy (Credit Reporting) Code 2014.</p> <p>Sample Drafting <u>Chapter 6 - Responsible selling: Sales, contracts and credit assessments: Assess capacity to pay and manage debt, existing postpaid customers [update cl 6.1]</u></p> <p>1. Before entering a new contract with an existing residential customer, a CSP must complete a credit assessment if the new contract may result in a debt owed by the customer equal to or greater than \$150</p>	Member is keen to ensure in circumstances where up front services are purchased but trigger the \$150 debt there is an opportunity to choose not to perform the credit assessment when you know you will not pursue the debt. We have been playing with the concept but note it probably doesn't quite work yet. We don't want it to seem like a 'get out of jail free card' as this is not the intention. We are keen to discuss with the DC.	"Where a CSP does not perform a credit assessment in accordance with clause X it must not pursue debt recovery, or a default listing. A CSP is still required to send restriction, suspension and disconnection notices as per clause/s X."	<p>Agreed to consider concept of no credit assessment being required where no debt will be owed and/or pursued.</p> <p>Other protection around responsible selling remain to ensure offers are appropriate to the needs and circumstances of the customer.</p>	<p>Updated language to refer to when a debt is owed and pursued:</p> <p>1. Before entering a contract with a new residential consumer or an existing residential prepaid customer, a CSP must complete a credit assessment where a contract:</p> <p>a) may result in a debt owed by the consumer equal to or greater than \$150; and</p> <p>b) the debt will be pursued by the CSP.</p>

Customer Service					
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TIO	Overall comment on all proposals in this position paper.	We support these changes in principle, but would like to see more detailed drafting of the relevant provisions in context.		Noted. Key new or substantially changed clauses have been our focus for this part of the process, but the iterative drafting process for further drafting will provide stakeholders with further opportunities to review provisions in context.	N/A
ACCC	Overall proposals (without drafting) as tabled at RC3. ACCC did not provide written comment on the Position papers, as noted. But support for the general proposal was provided at RC#3 by ACCC staff: From RC#3 minutes: Ms. Morice – <ul style="list-style-type: none"> • supportive of overarching proposals as tabled • questioned whether, with the possible inclusion of a new chapter, is it proposed that the Code will be structured around the customer lifecycle? Ms. Wilson advised that yes, the new code structure would essentially be structured around the customer journey, with overarching obligations/information at the start.			N/A	N/A

Customer Service					
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ACCAN	<p>Proposal – available customer service channels and related information is clearly communicated</p> <p>The Code will include provisions to require that:</p> <ul style="list-style-type: none"> • CSPs make available clear information about the available contact channels for consumer enquiries, assistance, and support to enable customers to make an informed decision about a service to purchase, including in relation to the support channels available to them. • Contact channels reasonably reflect the needs of the target market. For example, if a product is targeted at the youth market, it would be reasonable to have a particular focus on digital communication channels. <p>Sample drafting <u>Chapter 7 – Customer Service:</u> <u>Contact channels [new clause]</u></p> <p>1. CSPs must make available:</p> <ol style="list-style-type: none"> a. clear information on their website about the customer contact channels available; and b. the hours of operation for that contact method. <p>Guidance – contact channels. Contact channels should</p>	<p>ACCAN considers that contact channels should be representative of all demographics in addition to reasonably reflecting user demographics. This code requirement should not limit the contact channels that providers offer to consumers. ACCAN would appreciate more clarification from the DC on the nature of the 'other contact mechanisms' mentioned in the 'guidance - contact channels' section.</p>		<p>This provision in no way limits the contact channels.</p> <p>The DC believes that, in a competitive market, it is reasonable for a business to be able to define its business model or target market and cater accordingly, as long as it is upfront and clear about options available, and there are appropriate protections for vulnerable customers. New and strengthened provisions to cover both these issues have been proposed. New provisions have also been proposed to require 'real time' communication with customers.</p> <p>Our drafting was not as clear as it might have been, however, and we have adjusted it accordingly.</p>	<p>Second bullet point in the proposal has been deleted.</p> <p>The proposed guidance box has also been deleted.</p>

Customer Service					
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	reasonably reflect the user demographics. For example, if a product is targeted at the youth market, it would be reasonable to have a particular focus on digital communication channels. If the customers are mainly older consumers, other contact mechanisms would be reasonably expected				
TIO	<p>Proposal as above</p> <p>Guidance – contact channels. Contact channels should reasonably reflect the user demographics. For example, if a product is targeted at the youth market, it would be reasonable to have a particular focus on digital communication channels. If the customers are mainly older consumers, other contact mechanisms would be reasonably expected</p>	We support the requirement for a customer service option where consumers can communicate with a real person in real or near-real time. We note this would be supplemented by requirements in the Complaints Handling Standard for telcos to allow consumers to make complaints via specified contact channels.		<p>We acknowledge the current requirements of the Complaints Handling Standard (CHS) re specified contact channels. This would obviously continue until whenever that instrument is reviewed. We note discussions in RC#3 (when this paper was discussed): Ms. Gebert –</p> <ul style="list-style-type: none"> • very supportive of the proposal that there be a requirement in relation to escalation to a 'real person', noting that support is (again) conditional on seeing full drafting. • noted that there needs to be consistency with Complaints Handling Standard (CHS) re complaints. <p>In response to questions from Ms. Wilson and Mr. Sexton about whether this constancy might be appropriately achieved through an update to the CHS, which is currently quite dated and very prescriptive, requiring CSPs to</p>	n/a

Customer Service					
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				have a postal address and phone number, Ms. Gebert emphasised that she is focused on the outcome.	
ACCAN	<p>Proposal – available customer service channels and related information is clearly communicated</p> <p><u>Chapter 7 – Customer Service: Effective service [update current 4.7.1]</u></p> <p>1. CSPs must ensure that they deal with enquiries in a timely and effective manner.</p> <p>2. CSPs must keep records of interactions between the CSP and customers and:</p> <p>a. make these records accessible to staff tasked with responding to customer enquiries, to aid in resolving those enquiries;</p> <p>b. where requested by a customer, provide to the customer or former customer the records kept for as long as the CSP retains those records; and</p> <p>c. if the CSP charges a fee for providing the records kept, limit that fee to no more than the reasonable cost of finding, accessing, arranging, and providing the information.</p> <p>Note: drafting would include appropriate exceptions to the requirements outlined at (a) and</p>	ACCAN considers that the code should contain detailed requirements for providers to deal with enquiries within certain periods of time as identified by the submissions to the 2018 TCP code review and mentioned earlier in this position paper.	<p>ACCAN's 2018 TCP Code Recommendation 9: Adding the following wording to CI 4.9.1 (b):</p> <p>'Telephone contact: Customer wait times to be connected to the right customer service area to handle an enquiry must be kept to a maximum of five minutes.</p> <ul style="list-style-type: none"> •Live chat: an acknowledgement to an enquiry must be provided within two minutes. •Other contact methods: email, online and social media inquiries must be acknowledged by the Supplier within one working day.' 	<p>When trying to agree on retail service standards, it's hard to define a 'reasonable' timeframe for all enquiries.</p> <p>However, the DC is looking at this issue further in relation to monitoring.</p>	To be further reviewed and considered in the next stages of drafting.

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	(b) e.g., to make it clear that these requirements would not apply where such action might jeopardise the safety of a victim of domestic and family violence.				
ACCAN	<p>Proposal – clear customer service escalation pathways</p> <p>Sample drafting <u>Chapter 7 – Customer Service:</u> <u>Contact channels [new clause]</u> 1. CSPs must provide at least one contact channel that enables customers to communicate with a representative in real time, or near real time.</p> <p>Guidance – to be drafted – per the proposal commentary</p>	ACCAN supports this provision in principle (noting comments above)		N/A	N/A
ACCAN	<p>Proposal – new requirement in relation to case management The Drafting Committee (DC) proposes to include a clause requiring that CSPs be able to demonstrate case management processes and procedures: have been designed to prioritise customer safety and security, and progress towards a workable and satisfactory outcome for the consumer, while also appropriately balancing the desire to:</p> <ul style="list-style-type: none"> • avoid or minimise the need for a customer to constantly repeat details of their situation or problem, and • consider the compromise 	ACCAN supports this proposal in principle however in the absence of drafting, cannot comment extensively on this section. ACCAN supports mandated review periods and training for these processes and procedures.		Drafting is necessarily limited by time constraints, but intention is agreed, as noted. Refer to the DFV Guideline for some example of drafting to reflect case management issues (it is DFV specific, but same principles apply).	Note made in Agreed Position Paper of our clear intent on this. Actual drafting will be tackled in the next stages of drafting.

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	<p>between repetition of the issue and wait time (noting that warm transfers may cause delays).</p> <p>Best practice in case management will depend on the issues being addressed. For example, case management for customers affected by domestic and family violence may be different to that for a customer with an enquiry about coverage.</p> <p>No sample drafting included.</p>				
ACCAN	<p>Proposal – clearer requirement about the management of the ongoing relationship with a customer. The DC will include information and/or provisions around:</p> <ul style="list-style-type: none"> • understanding that consumer needs can change; • making all reasonable efforts to be able to meet those needs; and • providing access to timely advice and support, including, where relevant, in relation to external referrals, should the CSP be unable to offer services to assist the customer's specific needs. <p>Sample drafting <u>Chapter 6 – Responsible selling: Sales, credit assessments and contracts: Meeting consumer needs [update current 4.5.2]</u></p>	<p>ACCAN considers this drafting vague and would support more provisions being included in this section in relation to what consumer needs can be met. ACCAN supports that in some circumstances that CSPs may need to record information in order to limit customers having to reiterate their needs.</p> <p>ACCAN considers that a guidance note with examples should be provided alongside this to clarify to providers and consumers an acceptable use case of this provision. ACCAN would welcome further drafting on this provision.</p>		<p>It is not clear whether ACCAN is suggesting changes to the clause drafting, or just the guidance box. We would be happy to explore this further when time allows. However, to confirm, as per the proposal, the DC proposes to require that CSPs make reasonable effort to ask consumers what their needs are, and to make reasonable efforts to meet those needs. But there has to be recognition that a consumer has to want that assistance and disclose needs as part of the process, if it is to be useful. And that the CSP may not have the 'perfect' product for the consumer.</p> <p>It is unclear how recording information is a useful or proportional response, particularly given the emphasis</p>	<p>Minor changes have been made to the drafting, for clarity. A Guidance box has also been included.</p> <p>2.A CSPs must:</p> <ol style="list-style-type: none"> ensure representatives are appropriately trained to assist the consumer identify their needs, and to advise consumers on offers that the CSP has available that best match those needs; provide information that can help consumers predict their typical telecommunications usage; and identify which of their available offers

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	<p>1.If a consumer identifies a particular need to a CSP, the CSP must indicate if it has an offer that may suit the consumer's identified need.</p> <p>2.A CSPs must:</p> <p>a. ensure representatives are appropriately trained to assist the consumer identify their needs, and to advise consumers on offers that the CSP has available that best match those needs;</p> <p>b. provide information that can help consumers predict their typical level of telecommunications usage and what offers may be suitable for that level of usage.</p>	<p>ACCAN considers that the TCP code should establish a provision to mandate that providers allow consumers to easily access an accessible plot graph of their data usage which is plotted over intervals such as 3 months, 6 months, 12 months and 24 months in order for them to easily quantify their usage for their own comparison. Providers must allow consumers to easily access accessible plot data of their usage to better understand what offers may be suitable for their usage.</p>		<p>on the fact that consumer needs can change.</p> <p>We think ACCAN's suggestion of a guidance box would help ensure the intent is realised and have made note of this intent in the 'Agreed Position Paper'.</p> <p>Re the suggestions on plot graphs, we question its use and the suggested level of prescription. We have proposed that sales staff be trained to assist consumers work out their likely needs. Additionally, a quick google reveals that there are numerous resources to help a consumer understand their needs, provided both by CSPs and by numerous other organisations - including based on historical data stored on the user's own device, and information about typical hourly use data of different activities (google maps, YouTube, etc.).</p>	<p>would likely be most suitable for a consumer with the identified usage pattern.</p> <p>Guidance – Identified needs Guidance to be drafted, but will be along the lines of:</p> <p>A consumer's identified needs could include anything from needing large amounts of data, or data sharing amongst family members, wanting a plan that offers the best deal for calling a designated country regularly, or meeting certain budgetary needs.</p> <p>It also includes the needs of those with disabilities or in other potentially vulnerable situations. See also xxxx (cross reference to be included to relevant chapters).</p>

Domestic and Family Violence					
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ACCAN	Overarching comment	ACCAN welcomes the DC's revision of the guideline however would stress that it does not address ACCAN's core concerns around protections for consumers experiencing DFV. ACCAN believes that telecommunications consumer protections related to consumers experiencing domestic and family violence should be directly enforceable.	(none)	Out-of-scope. But note CA position paper on regulatory reform.	N/A
TIO	Overarching comment	The proposed protections could be strengthened, as it has minimal requirements for telcos around domestic and family violence responses. Instead, detailed FV information is in the optional Industry Guideline G660:2023 Assisting Consumers Affected by Domestic and Family Violence.	(none)	<p>Because the guideline is not enforceable, the DFV drafting committee committed to key provisions going in the TCP Code - a commitment that the DC fully supports.</p> <p>As discussed at RC#2, the DC acknowledges that the electricity sector includes DFV requirements and guidance all in one place, but the presentation of abuse is much more complicated in the telecommunication sector than in the electricity sector and managing the issues is therefore also much more complicated.</p> <p>The CA Guideline document is a very lengthy, comprehensive, best</p>	However, we have made some requirements more detailed and explicitly stated that CSPs must have regard to the G660.

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				<p>practice document and is the correct place for this detail. It would be impractical and confusing to include such detail in the TCP Code. To explain further:</p> <p>The guideline provides operational best practice guidance about how to manage DFV as a whole - at a company level and at every stage of the customer journey. It includes detailed explanations of the issues, with case studies and guidance to illustrate the issues as they are likely to present to CSPs. It explains how different approaches might work best for different company sizes and structures.</p> <p>As the Agreed Position Paper explains, there are numerous current obligations in relation to DFV, which are necessarily split across a number of different technical Codes; capturing all the different scenarios into a single instrument would be very complex. The updated CA DFV Guideline makes these connections clear – including making clear where other, related</p>	

Domestic and Family Violence					
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				<p>mandatory obligations (in other instruments) lie. (See detail about cross references in Agreed Position Paper.)</p> <p>The new DFV provisions proposed for the TCP Code mandate action in new areas (as presented) and clearly highlight the CSPs' obligations in the space.</p> <p>However, we agree that CSPs should be referring to the Guideline when developing their policies. We have therefore added a specific statement in the drafting that CSPs must have regard to G660.</p>	
ACCAN	<p>Proposal - DFV-support policy and governance requirements Introduce a requirement for policies and systems to manage and respond to DFV.</p> <p>Introduce a requirement to have governance arrangements to monitor compliance, including oversight by a senior executive.</p> <p>Sample drafting <u>Chapter 4 - Supporting the Customer: DFV-support policy and governance requirements</u> 1.CSPs must have policies and supporting materials on the following, managed, and overseen by a senior executive:</p>	ACCAN considers that this drafting should reflect the severity of DFV.	<p>ACCAN considers that this sample drafting should be amended to:</p> <ul style="list-style-type: none"> Domestic and Family Violence, including processes that mandate the establishment of identification, support and safety requirements for consumers affected or likely to be affected by DFV. Economic abuse, including processes that mandate the establishment of identification, 	<p>We do not dispute the severity of DFV and it is our intent to ensure appropriate protections through the TCP Code.</p> <p>In relation to the point at b, this is covered - we refer ACCAN to the definition of DFV that we have proposed be included. This covers all types of abuse, including economic.</p> <p>But we've amended some drafting to better demonstrate our agreed commitment to this position - see below against TIO</p>	New drafting, see below.

Domestic and Family Violence					
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	a. Domestic and Family Violence, including processes that consider the identification, support, and safety considerations for consumers affected by DFV.		support and safety requirements for consumers affected or likely to be affected by economic abuse. ACCAN supports the governance arrangements that clearly provide for senior executive staff to have accountability and responsibility for ensuring the delivery of DFV protections. ACCAN considers that further detail is required on the substantive requirements associated with this provision. At present drafting does not clearly indicate what protections will be afforded to consumers affected by DFV.	comments.	
TIO	(comments relating to the drafting above)	We support the requirement for policies and systems to respond to DFV in principle. However, the proposals does not discuss arrangements about monitoring compliance and what this would involve, or any review	Recommendation 28 from our submission supports the following measures: The mandatory protections for consumers experiencing	As above, we agree with the intent of all and have amended drafting to better reflect our intent. NOTE: (1) The policy will be binding if included in the Code. (2) the point made in	Chapter 4 - Supporting the Customer: DFV-support policy and governance requirements 1. CSPs must have policies and supporting materials

Domestic and Family Violence					
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		processes/requirements.	<p>DFV should include, at a minimum:</p> <p>A) requirements for a telco to have a binding DFV policy that clearly sets out how it will identify and assist consumers experiencing DFV</p> <p>B) requirements for all telco staff who deal with consumers (and their managers) to receive ongoing training in how to assist consumers experiencing DFV</p> <p>C) requirements for telcos to have a secure process to assess and identify whether a consumer is affected by DFV, that avoids the need for the consumer repeatedly disclose or refer to their experience</p> <p>D) requirements for telcos to recognise DFV as a likely cause of payment difficulties, and consider the impact of any service</p>	(f) is already dealt with in proposed drafting provided - see the proposal and accompanying drafting in the paper 'Domestic and Family Violence' - contract requirements.	<p>on the following, managed and overseen by a senior executive:</p> <p>a. Domestic and Family Violence. CSPs must have regard to the Industry Guideline G660: Assisting Consumers Affected by Domestic and Family Violence, when developing their policies, which must:</p> <ul style="list-style-type: none"> • clearly set out how the CSP will identify, support, manage, review and monitor DFV issues; • emphasise safety (of the affected consumer and CSP staff). • be trauma-informed; • ensure that a CSP's responsibilities, communication channels, case management, support and escalation requirements (external and internal) are clear; • align with and appropriately reference mandatory consumer obligations under other instruments (e.g. the FH Standard).

Domestic and Family Violence					
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			<p>suspension or disconnection for the consumer before starting credit management or debt collection activity</p> <p>E) rules prohibiting a telco from requiring a consumer to communicate with or disclose information about a perpetrator of DFV against them as part of dealing with an enquiry</p> <p>F) rules specifying that if a telco cannot comply with a contractual obligation because of its obligations to a consumer under the DFV protections, it is not in breach of its contract.</p>		<p>Guidance: Developing a DFV Policy</p> <p>It is essential that CSPs have their own, company-specific DFV policies and supporting material to ensure a safe and comprehensive DFV response that fits their size, structure and way of operating. This must be supported by appropriate training. A flexible response is necessary; there is not a 'one-size-fits-all' solution; the safe and appropriate response can vary depending on the consumer's circumstances.</p> <p>Note that it is never appropriate for a CSP to require that a consumer be required to involve their alleged perpetrator in any discussion. Such actions could put lives at risk.</p>

Domestic and Family Violence					
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ACCAN	<p>Proposal – protection from disconnection Introduce a requirement to protect consumers affected by DFV from being disconnected.</p> <p>Sample drafting <u>Chapter 9: Credit management, debt management and disconnection (TBC)</u></p> <p>1.Once a CSP becomes aware a consumer is affected by DFV, it must protect the affected person's service(s) from disconnection.</p>	ACCAN supports this drafting in principle, however, considers that it should be amended to further protect consumers.	<p>ACCAN considers this drafting should be amended to:</p> <p>1.Once a CSP becomes aware that a consumer is experiencing or may experience DFV, it must ensure that the affected person(s) service is not disconnected. Additionally, consumers affected by DFV should not be subject to credit management action, debt collection or have their debt sold to a debt collection agency. ACCAN would support further detail on requirements to have processes in place to prevent the inadvertent disconnection of consumers affected by DFV.</p>	<p>The absence of a prohibition from disconnection is deliberate; there are times where a consumer would WANT disconnection and we do not want to create harm by prohibiting it. 'Protecting from disconnection' is intended to ensure that the victim is not disconnected unless there is a very good reason (e.g. they want it, for safety reasons).</p> <p>However, we acknowledge the intent of ACCAN's comment and have added further guidance to ensure CSPs are clear on the intent.</p> <p>Re debt issues - we expect to reflect FH Standard requirements where appropriate and will review this according.</p>	<p>Further details are in the guidance note.</p> <p>Guidance – protecting an affected person's service from disconnection.</p> <p>The loss of service is a major disruption for anyone, but for a DFV-affected person the consequences can be particularly significant and far-reaching.</p> <p>'Protecting' from disconnection does not mean that a person's service cannot be disconnected, or that it will be maintained in perpetuity, regardless of circumstance. Rather, it means that there are additional protections in place to shield a DFV-affected customer from unwanted disconnection while their matter is being actively managed.</p> <p>Responses to DFV must be consumer-led; the DFV-affected person knows best how to keep themselves safe. While most DFV-affected consumers are likely to prioritise maintaining connection, there may</p>

Domestic and Family Violence					
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					<p>be occasions where they choose to disconnect a service. There may also be times when it is otherwise necessary to disconnect their service to prevent or reduce possible harm, where there is evidence of fraud or other legitimate reason for disconnection.</p> <p>In addition to general protections from disconnection under financial hardship obligations, the ability to manage a number - including initiating transfers, ports or disconnections - rests with a customer as the rights of use holder. This means a DFV-affected end user cannot manage a number, even if they have used it for years and it is their known contact number with friends, family and support services. CSPs should have processes in place to ensure the service of a DFV-affected end user is not disconnected, interrupted, or ported while the CSP is managing a rights of use dispute under the C566 Number Management –</p>

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					<p>Use of Numbers by Customers Industry Code.</p> <p>For further guidance see G660 Assisting Consumers Affected by Domestic and Family Violence Industry Guideline.</p>
TIO	Proposal above re disconnection	<p>We support in principle protection for consumers from disconnection, however we would like additional clarity on this protection. There is no prohibition on disconnection, and it is unclear what 'protect consumers affected by DFV from being disconnected' may mean in practice. The guidance suggests disconnection protection may include mirroring protections or safeguards for financial hardship customers.</p>		<p>See above. Correct that there is no prohibition on disconnection. Intent is more in line with the FH standard intent. Amended wording has been included, as above.</p>	Amended drafting, as above.
ACCAN	<p>Proposal - staff training</p> <p>Introduce a requirement for staff training on identification, support, and safety considerations for consumers affected by DFV. Staff training must:</p> <ul style="list-style-type: none"> at an appropriate level for the staff member role, with requirements for refresher 	<p>This drafting should reflect the severity of DFV as a pervasive social issue.</p> <p>ACCAN's further recommendations are detailed in our DFV policy position. Link: https://accan.org.au/accans-work/policy-positions/2253-</p>	<p>ACCAN considers that 1.a. and 2 should be amended to:</p> <p>Domestic and Family Violence, including training that includes the identification, support and safety requirements for consumers affected or</p>	<p>To ensure a comprehensive, telco and individual company-appropriate response that delivers the desired outcomes, CSP's need to bring together internal and external expertise.</p> <p>We recognise that for a lot of</p>	<p>Guidance now included:</p> <p>Guidance - staff training</p> <p>It is strongly recommended that RSPs work with a reputable training provider with DFV expertise to develop and review DFV staff training. This will allow material to reflect both current best</p>

Domestic and Family Violence					
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	<p>training; and</p> <ul style="list-style-type: none"> included as part of high-level training to staff at induction; with more detailed training for frontline customer service staff, specialist training staff and staff working in areas likely to deal with DFV-related issues (e.g. sales, credit collections, financial hardship, fraud, privacy and escalated complaints management). <p>Sample drafting <u>Chapter 4 - Supporting the Customer: Staff training – company-wide</u></p> <p>1.CSPs must provide staff training to support compliance with Code obligations, including (where relevant):</p> <p>a. Domestic and Family Violence, including training that considers the identification, support, and safety considerations for consumers affected by DFV.</p> <p>2.Company-wide staff training must occur:</p> <p>a. at induction; and as an annual refresher.</p>	<p>domestic-and-family-violence.</p> <p>ACCAN considers that training requirements for staff dealing directly with consumers affected by or likely to be affected by DFV should be more stringent. ACCAN considers that the sample drafting in Chapter 4 should be amended to:</p>	<p>likely to be affected by DFV.</p> <p>2.Company wide staff training must occur;</p> <p>a. at induction; and</p> <p>b. as an annual refresher; and</p> <p>c. for staff dealing directly with consumers affected by DFV, on a half yearly basis.</p> <p>d. and be facilitated by a reputable training provider with DFV expertise.</p>	<p>CSPs, external input will be a valuable part of this. However, recognising the above, it is appropriate to focus on outcomes, rather than prescribing how it might be achieved.</p> <p>However, to make this clear, we have included some guidance from the DFV Guideline in the TCP Code drafting.</p> <p>in relation to the comments on stringency, we have added detail to the drafting to include key elements that must be included in the training.</p>	<p>practice on DFV-specific issues and the RSP's company-specific needs (e.g. to support the RSP's policy and supporting materials).</p> <p>A list of DFV training providers is found in Appendix 3: Training resources for RSPs.</p> <p>Detail added: <u>Chapter 3 – Organisational Culture and Governance: Staff training – company-wide [new]</u></p> <p>1.CSPs must provide company-wide staff training* to support compliance with Code obligations, including:</p> <p>a. Domestic and Family Violence. When developing this training, CSPs must have regard to, the Industry Guideline G660: Assisting Consumers Affected by Domestic and Family Violence. It must include:</p> <p>i. information to help staff understand (at a high level) the nature and</p>

Domestic and Family Violence

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					<p>impact of DFV, and how to recognise common forms of DFV associated with a telecommunications service;</p> <p>ii. Instruction on how to manage and respond to DFV-associated issues at a basic level (including how to safely escalate matters and how and where to seek support).</p> <p>2. Company-wide staff training must occur:</p> <p>a. at induction; and</p> <p>b. as an annual refresher.</p> <p>Guidance – company-wide training</p> <p>Company-wide training is intended to provide staff in any role that can reasonably influence customer outcomes with a broad understanding of DFV and common presentations in the telecommunications space, thereby reducing the chance that a product or service may unintentionally be designed or presented in</p>

Domestic and Family Violence					
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					<p>a way that could lead to harm to those in DFV situations. For example, understanding that certain features may be used by a DFV perpetrator to monitor their victim may lead to IT staff designing a service differently or marketing and selling it differently.</p> <p>For clarity, it is not expected that those in roles with no association or influence over customer outcomes receive DFV training (office cleaners, building maintenance staff, or administrative or other roles with no influence on customer outcomes).</p>
TIO	The sample drafting differentiates between company-wide training and specialist staff training, and both propose training at the time of induction and as an annual refresher. However, the sample drafting appears to allow a level of discretion for telcos not to provide DFV training, as it contains the qualifying language '(where relevant)'. It is unclear how this would apply in practice.			<p>The 'where relevant' here is to ensure that there isn't an obligation to train staff such as cleaners, or building contractors, about DFV.</p> <p>We have added a note to provide clarity on this point.</p>	Note added for clarification.
ACCAN	Chapter 4 - Supporting the Customer: Staff training – specialist staff	As above, ACCAN supports more frequent staff training refreshers.	ACCAN considers that 2.b. should be amended to: 2b. as a	(Repeat point, covered above)	(Repeat point, covered above)

Domestic and Family Violence					
Org.	Issue	Comment	Suggested change to drafting (if applicable)	DC Comment	How it has been addressed
	<p>1. Company-wide training must be supplemented by appropriately tailored training for specialist staff to suit their specific roles and responsibilities (where relevant). This includes:</p> <ul style="list-style-type: none"> a. training on DFV for: <ul style="list-style-type: none"> i. frontline customer service staff; ii. specialist DFV staff; iii. staff working in areas likely to deal with DFV-related issues. This includes staff in sales, credit collections, financial hardship, fraud, privacy, and escalated complaints management roles. <p>2. Specialist staff training must occur:</p> <ul style="list-style-type: none"> a. at induction to a role; and b. as an annual refresher. 		half-yearly refresher.		
ACCAN	<p>Proposal - contract requirements</p> <p>CSP's customer contracts (SFOA/T&Cs) for a service must include a provision to ensure sufficient arrangements to enable termination and disassociation of mobile number(s) from an account where the end-user has been affected by DFV from the customer.</p> <p>Sample drafting</p> <p><u>Chapter 6 - Responsible selling:</u></p> <p><u>Sales, contracts and credit assessments: SFOA/T&Cs requirements</u></p>	ACCAN supports the sample drafting in principle. ACCAN considers that the ability of CSPs to do this should be made clear to customers through the provision of the customer contract.			no action necessary - proposal supported

Domestic and Family Violence					
Org.	Issue	Comment	Suggested change to drafting (if applicable)	DC Comment	How it has been addressed
	<p>1.CSPs must provide customers with a customer contract that includes:</p> <p>a. terms and conditions that outline the ability of the CSP to disconnect a number and remove the rights of use from a customer and issue that number to an authenticated former end user of the account where the end-user has been affected by DFV;</p> <p>Add Guidance Box - referencing G660 DFV Guideline and C566 Use of Numbers Code on rights of use of numbers.</p>				
TIO	(proposal above) We are supportive of the requirement for telcos to include contractual provisions to enable the termination/disassociation of mobile numbers from an account where the end-user has been affected by DFV perpetrated by the customer.				no action necessary - proposal supported
ACCAN	<p>Proposal - access to support and evidence</p> <p>CSPs must not require evidence as a pre-requisite for assistance and support; the only exception is where legal or regulatory obligations need supporting evidence to undertake a specific transaction (i.e., a right of use change, which may</p>	<p>ACCAN supports this drafting in principle and would welcome further drafting. ACCAN considers that CSPs should take into account the re-traumatising impact of any request for supporting materials.</p> <p>ACCAN considers that the</p>	<p>ACCAN considers that Chapter 7. 2. be amended to:</p> <p>Where supporting materials are required to meet regulatory or legal obligations, CSPs must only request and retain the minimum amount of</p>	See below	See below

Domestic and Family Violence					
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	<p>require a demonstration of ongoing connection to the service in question).</p> <p>If supporting materials (such as a statutory declaration or letter from a support service) are required (e.g., during a fraud investigation or when undertaking an ROU change for a service), CSPs should request only the minimum amount of information to enable them to meet their legal or regulatory obligations.</p> <p>Consideration must be given to the re-traumatising impact of any request for supporting materials. There must be no requirement to provide evidence of the abuse, only the information relevant to the consumer's request.</p> <p>Sample drafting <u>Chapter 7 - Customer service and support: Access to support and evidence – DFV-affected consumers</u></p> <ol style="list-style-type: none"> 1.CSPs must not require evidence as a pre-requisite for assistance under the CSPs' DFV policy. 2.Where supporting materials are required to meet regulatory or legal obligations, CSPs must only request and 	<p>sample drafting be amended to reflect the re-traumatising impact of providing supporting materials.</p>	<p>information to meet their legal or regulatory obligations. In their communications with consumers, CSPs must take into account the re-traumatising impact of any request for supporting materials against the requirement for the consumer to provide the materials. CSPs should ensure that after this data has been utilised to fulfill this obligation, that it is securely deleted.</p>		

Domestic and Family Violence					
Org.	Issue	Comment	Suggested change to drafting (if applicable)	DC Comment	How it has been addressed
	retain the minimum amount of information to meet their legal or regulatory obligations. 3.A CSP must publish on its website a list of one or more external DFV support services.				
TIO	As above	We support providers not needing evidence as a pre-requisite to giving assistance and support to a consumer (except for legal/regulatory obligations).	We support the sample drafting 'A CSP must publish on its website a list of one or more external DFV support services'. This could go further by requiring proactive staff responses. e.g., staff could provide this information to consumers in tailored ways.	Proposal is supported. In terms of how the information is provided, this requirement is already proposed - it is covered by requirements to take a consumer-led, safety-first, and trauma-informed approach (see earlier comments and guidance).	covered in earlier drafting
ACCAN	<p>Proposal - update references Inclusion of cross-references and updated guidance on relevant related instruments, such as the refreshed G660 Guideline and Use of Numbers Code.</p> <p>Sample drafting <u>Chapter 1 – Terminology, definitions, and acronyms:</u> <u>Definition of 'domestic and family violence'</u> 1. Domestic and family violence refers to a wide range of behaviours by a person(s) designed to create a dependency or to isolate,</p>	ACCAN cannot adequately comment on this proposal without further drafting.		This comment is unclear. Chapter 1 is a chapter on definitions. This is the proposed definition to be included for DFV. Recognising that terminology used to identify and describe violence and abuse between intimate partners, immediate and extended family, communal and kinship relationships, and carer and guardianship arrangements is diverse, with no consistency nationwide on its scope and use, CA proposes to include both a concise definition of	This point has been made clearer in the Agreed Position Paper.

Domestic and Family Violence					
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	<p>monitor, dominate, or control another person.</p> <p>Guidance The term 'domestic and family' does not seek to limit the definition to the immediate family or the domestic home. Abuse and violence occur within many personal relationships – intimate partners, immediate and extended family, communal and extended kinship relationships, and carer and guardianship arrangements.</p> <p>'Violence' in this context consists of physical violence and other types of abuse that cause harm. Examples of abuse include life threatening communications, unwelcome communications, economic and financial abuse and technology-facilitated abuse.</p> <p>For further guidance see G660 Assisting Consumers Affected by Domestic and Family Violence Industry Guideline</p>			<p>the term, plus a guidance box for further information, with even more very detailed information in the referred G660.</p> <p>Additionally, for absolute clarity, we propose linking 'short' definitions with the full definition in chapter one, each time they are used.</p>	
TIO	We are supportive of updated guidance on relevant instruments.			Support.	Noted.

Essential Information					
Org.	Issue	Comment	Suggested change to drafting (if applicable)	DC Comment	How it has been addressed
ACCAN	<p>Desired outcome from TCP Code revision</p> <p>Consumers get clear and consistent information about the telecommunication product offering (telecommunication goods and/or services) at each point of the customer journey:</p> <ul style="list-style-type: none"> • in publicly available, pre-sale material and communications; • at point of sale; • in a post-sale 'confirmation of offer'; and • customer contracts. 	<p>At present variations in the presentation of information increase information costs for consumers, with no attributable benefit but to increase market frictions and reduce search. Noting the TCP Code revisions will require standardisation of information presentation within CSPs, we consider that industry standardisation should also be pursued due to the low incremental cost and material consumer benefits.</p>	<p>ACCAN considers that standardisation of the form in which information is presented to consumers across industry should be a desired outcome from the TCP Code revision.</p>	<p>Noted.</p> <p>The purpose of this concept is to create a similar set of information that carries through the sales journey - in advertising, in the CIS, in discussion with CSP staff and in an order summary. It would not be practical to define how to present the defined set of information at each stage.</p> <p>We would also refer ACCAN to requirements for providing information to consumers under the Accessibility and Customer Service papers and the need to be able to customise this information to the consumers' needs.</p>	No changes
ACCAN	<p>Proposal - essential information definition</p> <p>Define the term 'essential information' in relation to a telecommunication product during the sales process.</p> <p>Sample drafting</p> <p><u>Chapter 1 - Terminology, definitions, and acronyms:</u></p> <p><u>Definition of 'essential information'</u></p> <p>1. Essential information means a standard set of information about a telecommunication product being offered (advertised or sold). It includes:</p>	<p>ACCAN considers that alongside the existing list of essential information about a telecommunication product being offered, other details should be included in the drafting of this provision.</p>	<p>ACCAN considers that the following details should be included as part of a standard set of information about a telecommunication product being offered:</p> <ul style="list-style-type: none"> - A description of the payment method which the consumer may utilize to purchase the product or service (or the payment methods offered) and any fees associated with this payment method. - The contact details (phone and email) of the 	<p>Essential information is intended to be a standard set of information about the product under consideration by/offered to the customer, not the CSP. We do not want to have too much information included in the mandated information. As we work through drafting, we will work through whether it makes sense to include 'payment' information' instead of or as well as the other issues in 'essential information', or whether this information is better conveyed through other touchpoints (which is our current working view).</p>	No changes

Essential Information					
Org.	Issue	Comment	Suggested change to drafting (if applicable)	DC Comment	How it has been addressed
	a) the name of the CSP; b) a description of the telecommunications service; c) the minimum periodic cost (where calculable); d) the minimum term of the offer; e) the minimum quantifiable price of the offer; f) the minimum term of any discounts or benefits (where relevant); and g) information on mandatory bundled products included with the base telecommunication product (where relevant).		telecommunications industry ombudsman. - The contact details of financial counselling services. - The contact details of the national debt helpline.	The additional information requested is captured in the CIS, with the exception of the financial counselling and national debt helpline. The inclusion of debt support information is not relevant to the CIS, as the CIS is a requirement for prepaid services as well as postpaid. See also comments under 'selling policies' and 'payments'.	
ACCAN	Proposal - inclusion of term in critical stages of the sales process - 'essential information' is required to be provided Sample Drafting <u>Chapter 5 - Responsible selling: Advertising and pre-sales information: The CIS, [update current cl 4.2.2(a)]</u> 1. At the beginning of the document, in a separate, clearly identified section, each CIS must outline essential information about the telecommunication product offered.		ACCAN considers that the drafting of this provision should be accompanied by: <ul style="list-style-type: none"> • requirements for CSPs to account for the needs of consumers with accessibility requirements when outlining or providing essential information to consumer cohorts. • requirements for CSPs to account for the needs of consumers from culturally or linguistically diverse backgrounds when outlining or providing essential information to consumer 	Agreed, however this is captured in the Accessibility and Customer Service papers.	Noted, refer to Accessibility and Customer Service papers.

Essential Information					
Org.	Issue	Comment	Suggested change to drafting (if applicable)	DC Comment	How it has been addressed
			cohorts.		
TIO	<p>1.Requirements for telcos to supply 'Essential information' to consumers at various points in their relationship with their telco.</p> <p>1a. The 'Essential information' would include:</p> <ul style="list-style-type: none"> - the name of the telco - a description of the telecommunications service - the minimum periodic cost (where calculable) - the minimum term of the offer - the minimum quantifiable price of the offer - the minimum term of any discounts of benefits (where relevant), and - information on mandatory bundled products included with the base telecommunications product (where relevant) <p>2.Telcos would be required to include the Essential information in CISs, and in the body of advertising for telecommunications products.</p> <p>3.An obligation for telcos to clearly explain Essential Information about a telecommunications product to consumers during the sales process.</p> <p>4.A separate obligation for</p>	<p>1. In general, these proposals could be strengthened.</p> <p>2. Key pieces of important information have been omitted from the proposed definition of 'Essential Information', such as the payment methods offered for a service and a telco's required process for cancelling a service.</p> <p>3. The proposed 'Essential Information' and order summary requirements will provide some important information for consumers, but will not ensure they have a comprehensive record of what they agreed with their telco.</p>		<p>Essential information is intended to be a standard set of information about the product under consideration by/offered to the customer, not the CSP.</p> <p>Essential information is separate from the final, customised offer and contract. It is intended that the contract is made up of three parts:</p> <ol style="list-style-type: none"> 1) Order summary; 2) CIS 3) Standard Form of Agreement/Terms and Conditions. <p>Additional context on sales issues is captured in the Responsible Selling paper.</p>	No changes

Essential Information					
Org.	Issue	Comment	Suggested change to drafting (if applicable)	DC Comment	How it has been addressed
	<p>telcos to outline the difference between special promotional offers and the base offer during the sales process.</p> <p>5. An obligation for telcos to give consumers an 'order summary' after entering into a consumer contract.</p> <p>The order summary must contain:</p> <ul style="list-style-type: none"> - the name of the telco - the contact details of the telco - the expiry date of the fixed term contract (if applicable) - information about any special promotions, including discounts or bonus entitlements and the expiry date of the special promotion, and - A link to the CIS 				

Languages and Translation Services					
Org.	Issue	Comment	Suggested change to drafting (if applicable)	DC Comment	How it has been addressed
ACCAN	<p>Proposal – requirement to publish information about interpreter/ translation services</p> <p>A new obligation will be included in the Code to require that all CSPs provide information to consumers about translation services and support.</p> <p>Sample Drafting <u>Chapter 4 - Supporting the Customer [new chapter; new clauses]</u></p> <p>1.CSPs must provide:</p> <ol style="list-style-type: none"> the contact details of a translating and interpreting service in at least 5 'community languages'; and contact details for the National Relay Service. 		<p>ACCAN considers that CSPs must provide the contact details of a reputable, accessible, and free translating and interpreting service in at least 10 community languages in addition to the contact details for the national relay service.</p> <p>In addition, ACCAN considers that there be a requirement to provide translating an interpreting services for community languages where a CSP engages in active marketing or advertising to a community in language to align with other proposed provisions in this paper.</p>	<p>We think ACCAN has misunderstood the proposal - this is just what's next to the phone number'. The actual number of languages available is not restricted in the same way.</p> <p>In relation to the suggestion that the service be provided free (to the consumer), we have accepted this recommendation and amended drafting accordingly.</p> <p>The DC has mirrored these requirements on the energy sector, and indeed strengthened them to require at least 5 community language (number is not specified for energy). We do not think a requirement over and above a declared essential service is reasonable. It is an arbitrary number and will take up a lot of space.</p> <p>Re the second comment, this is already covered in the proposal/drafting for chapter 4, 1b.</p>	<p>Drafting change to require that consumers can access translation services at no cost (to the consumer):</p> <p>1.CSPs must provide at no cost to the Consumer:</p> <ol style="list-style-type: none"> the contact details of a translating and interpreting services in at least 5 'community languages'; and contact details for the National Relay Service.

Languages and Translation Services					
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ACCAN	<p>Proposal – See above.</p> <p>Sample Drafting <u>Chapter 4 - Supporting the Customer [new chapter; new clauses]</u> 2.Contact details that meet this requirement: a. are to be displayed as part of the contact information on the CSP's website; b. with any Bill; and c. on the CIS</p>		ACCAN considers that the drafting should require CSPs to clearly place these contact details, or hyperlink to these contact details on their websites home page to ensure consumers have easy access to translation services. These details should be replicated in an essential information documentation.	<p>We are not entirely clearly on the comment and note that hyperlinks are not encouraged as consumers rightly consider them a security risk.</p> <p>The proposal is to include details on documentation relating to key touchpoints where a consumer might need translation assistance - or might look for it. i.e., the website, with a bill, and on a CIS. This covers all bases.</p>	No change required
ACCAN	<p>Proposal – see above.</p> <p>Sample Drafting <u>Chapter 5 - Responsible selling; Advertising and pre-sales information: The CIS [new clause]</u> 1.In the body of the document, each CIS must contain the following elements: a. information on translation services, displayed in at least 5 community languages; b. [...];</p>		ACCAN considers that CSPs must provide the contact details of a reputable, accessible and free translating and interpreting service in at least 10 community languages in addition to the contact details for the national relay service. ACCAN would welcome further drafting on this provision.	See above. This drafting needs to be read in the context of the whole - we're showing how the requirements are included in various areas of the Code, as it makes sense with the code structure and customer journey.	No change required
ACCAN	<p>Proposal – expand existing obligations for targeted advertising Where a CSP has targeted advertising in a language other than English: • essential information* must</p>	Re clause 1(b): ACCAN would welcome clarification on the nature of reasonable assistance in this clause. ACCAN queries how reasonable assistance		<p>The guidance box will provide guidance on reasonable assistance.</p> <p>We have not yet drafted it, but the guidance will be along the lines:</p>	(Make note of the kind of thing that the guidance box will cover?)

Languages and Translation Services					
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	<p>be provided in that language, and</p> <ul style="list-style-type: none"> at no cost to the consumer, reasonable assistance must be provided in that language (e.g. support for sales, billing enquiries, credit management). *defined term. Refer to other position paper essential information. <p>Sample Drafting <u>Chapter 4 - Supporting the Consumer [new chapter; new clauses]</u></p> <p>1. Where a CSP has targeted advertising in a language other than English:</p> <ol style="list-style-type: none"> essential information and reasonable assistance must be provided in that language (e.g. support for sales, billing enquiries, credit management), at no cost to the consumer. <p>Guidance – Targeted Advertising</p>	<p>would differ between in-store communication and online communication.</p>		<p>'reasonable assistance' means assisting the customer with their translation needs to help them understand the key features and obligations of the sale, billing etc. in practice, this might mean a customer service representative speaking the language, or referral to the free translation service'.</p>	
TIO	<p>1. A requirement for telcos to publish information about interpreter/translation services. Under this requirement all providers would be obliged to provide contact details for a translating and interpreting service in at least five 'community languages', as well as the contact details of</p>	<p>1. We are generally supportive of these proposals but want to see the drafting in context before we provide final comment.</p> <p>1a. The Code could benefit from providing more</p>	<p>We will need to see fuller drafting in context before commenting further.</p>	<p>Reasonable assistance - see comments above.</p> <p>Re prescriptive guidance: if the TIO is able to provide definitive advice on which 5 languages to include, we would be happy to include this detail.</p> <p>The intention was to mirror</p>	<p>Happy to discuss further.</p>

Languages and Translation Services					
Org.	Issue	Comment	Suggested change to drafting (if applicable)	DC Comment	How it has been addressed
	<p>the National Relay Service.</p> <p>2.This information would need to be displayed as part of the telco's contact info on its website, on bills, and on CISs.</p> <p>3.A further requirement that where a telco has targeted advertising in a language other than English, both the defined 'Essential Information' and 'reasonable assistance' must be provided in that language.</p>	<p>prescriptive guidance about what the 'community languages' are, as the current proposal only provides guidance about what information telcos may consider when deciding what languages to include.</p> <p>2.It is unclear what is meant by the 'reasonable assistance' that would need to be provided in the same language as targeted advertising a telco uses.</p>		energy and to note that the 5 languages may be different in different areas of Australia.	
ACCAN	<p>Proposal – include reference to a First Nation's central resource</p> <p>We would like to be able to point to a central resource for First Nation's people – for information about various First Nation languages and potentially other information that could be used for cultural awareness training, etc.</p> <p>Our understanding is that such a resource is not currently available. We have, therefore, written to the First Nations' Advisory Group (4-10-23) to ask whether they are developing (or</p>	<p>ACCAN supports this proposal in principle and welcomes drafting to reflect it.</p> <p>However, ACCAN does not consider that this proposal is sufficient to ensure that FN consumers have access to relevant information.</p> <p>ACCAN notes that the scope of the FNDIAG extends to providing advice to government on FN policy regarding digital inclusion. The</p>	<p>Noting that the thresholds for customer support in language are unlikely to be met with FN consumers, we consider specific requirements are needed to ensure FN consumers receive information in language, or at a minimum in easy-English to support those FN consumers for who English is a second language.</p>	<p>(PW) We already have plain-English requirements in the Code. This recognises not only that the literacy rate of consumers isn't always high, even where English is their first language, but also that plain-English is good for everyone, including those with EASL.</p> <p>We would welcome DITRDCA's assistance to get a response to our October letter to FNDIAG, as we would welcome their advice on our proposal and have not received a response. We note that we have not requested</p>	<p>We are open to doing more but need govt assistance to do that...</p> <p>we could look in to working with gov to add a section to the moneysmart website section targeting indigenous users - https://moneysmart.gov.au/indigenous - by developing a tip sheet with basic information. Looking at what's there for banks though, it's totally generic. not sure it adds much value.</p>

Languages and Translation Services					
Org.	Issue	Comment	Suggested change to drafting (if applicable)	DC Comment	How it has been addressed
	might consider developing) such a resource. At the time of writing, no response has yet been received.	FNDIAG is not resourced to ACCAN's knowledge to develop materials for industry, and we consider requirements to develop material should be set out in the Code to provide for fit-for-purpose materials for FN consumers, with appropriate engagement with FN consumer representatives.		<p>that they develop materials for industry per se. We further note that government itself is struggling with how to best manage interpretation issues for First Nations people, with the demand for them outstripping supply across Australia. (ref: https://www.niaa.gov.au/sites/default/files/publications/protocol-indigenous-language-interpreting.pdf)</p> <p>The plain-English approach, combined with the customer's right to use an Advocate or Authorised Rep would, therefore, appear to be a reasonable first step, pending specific, constructive advice on what else can be realistically done in this space.</p>	https://moneysmart.gov.au/indigenous/bank-accounts

Mobile Network Coverage					
Org.	Issue	Comment	Suggested change to drafting (if applicable)	DC Comment	How it has been addressed
ACCAN	<p>Proposed Approach Provide guidance on coverage and update 4.3.1</p> <p>Sample Drafting <u>Chapter 5 - Responsible selling: Advertising and pre-sales information: Advertising [update cl 4.1.2]</u></p> <p>1. When advertising telecommunications products, CSPs must ensure:</p> <ol style="list-style-type: none"> If claiming a network coverage area in Australia, that the network coverage is generally available for consumers in the claimed coverage area; claims regarding broadband speeds, network coverage and other performance characteristics of a telecommunications product are fair and accurate; for mobile network coverage, display the underlying wholesale provider 	<p>ACCAN considers that what constitutes 'generally available' should be clearly defined, as current practice appears to vary across industry in communicating the availability of coverage. ACCAN notes that while engineering models may differ - in practice, consumers want information on what can be reasonably be expected to be available with a high degree of confidence 90-95%. While supportive of efforts on the part of AMTA to provide increased clarity as to what coverage is available CSPs should be required to provide meaningful, plain English descriptions of the relevant coverage that is available to consumers.</p>	<p>ACCAN considers that this sample drafting include requirements on CSPs to include links to coverage maps. These links may be present on the provider's website and should be clearly able to be accessed by the consumer through relevant hyperlinks.</p> <p>'Generally Available' should be clearly defined.</p>	<p>The AMTA agreed definitions and descriptions for coverage levels achieve this outcome ie. They are plain English descriptions of coverage, and are consistently used by the 3 mobile network providers. The 3 levels being outdoor, indoor, and with antenna. We can consider requiring CSPs to link to coverage maps?</p>	
ACCAN	<p>Proposal Sales process should include information about expected mobile coverage</p> <p>As part of the updates to the responsible selling clauses, clarity on an obligation during the sale of a mobile service to:</p>	<p>ACCAN supports this drafting in principle. We consider that providers should be proactive in communicating to consumers the expectations they should have regarding the coverage of their</p>		Noted	n/a

Mobile Network Coverage					
Org.	Issue	Comment	Suggested change to drafting (if applicable)	DC Comment	How it has been addressed
	<ul style="list-style-type: none"> check the critical locations for usage of the service (such as home and work); or direct consumers to the CSP's coverage map to review the likely performance of the service at this location. 	telecommunications services. CSPs should proactively ensure that their consumers aware of the potential coverage of their telecommunications products and services through providing accessible links or directions to these resources in person or online as part of the sale process.			
ACCAN	<p>Remedies in relation to mobile network coverage</p> <p>Where a consumer is signed to an ongoing contract for a mobile service, and mobile network coverage does not allow for adequate service usage as agreed at point of sale, CSPs will be required to have processes in place to enable the consumer to exit their contract with no early exit fees.</p>	ACCAN supports this in principle and would welcome sample drafting being made available.		Noted and the DC will look at drafting in next phase, noting this was not a key area of focus identified by the ACMA; and the ACCC in RC meetings also noted that they did not see it as a current problem area, but DC happy to revisit in next phase of drafting.	n/a
ACCAN	<p>Remedies in relation to mobile network coverage</p> <p>The CSP will also be required to have processes for the management of any associated bundled telecommunications products where a service is cancelled due to coverage issues. This obligation must be flexible with recommended remedies, to</p>	ACCAN considers that any remedies should be consumer focused, noting that the consumer is likely to suffer greater losses due to the inconvenience experienced by a purchased service not allowing for adequate service in a particular location and return the		Noted.	

Mobile Network Coverage					
Org.	Issue	Comment	Suggested change to drafting (if applicable)	DC Comment	How it has been addressed
	<p>prevent an unnecessary regulatory burden for smaller CSPs. Recommended remedies may include options to return an associated bundled telecommunication good, pay any outstanding cost in full, support financial hardship issues for any balance owed, or ways to maintain discounts for bundled telecommunication service if the base service is disconnected.</p> <p>A new clause will be developed and included in the new Sales chapter.</p>	<p>consumer to the same situation they were prior to the sale. Consumers should not be required to pay any outstanding costs in full.</p>			
TIO	<p>1. Updates to the Code to require telcos (when advertising their mobile networks) to be specific about which mobile network (Telstra, Optus or Vodafone) their mobile service products are associated with and provide consumers with coverage map information relevant to their offer.</p> <p>2. Pending AMTA's agreement, a guidance note on coverage that explains a current agreement between Telstra, Optus, and Vodafone to align their use of terminology associated with three levels of mobile coverage (indoor coverage, outdoor coverage, and external antenna), and</p>	<p>1. We support the requirements relating to advertising of mobile services in principle.</p> <p>2. The proposed sales process requirements should be strengthened. As drafted, it appears a telco could discharge its obligation by directing a consumer to check their coverage map. The reality of sales environments is that most consumers would not have the opportunity to do this while engaging in the sales process.</p>	<p>1. Change the obligation to provide coverage information during sales conversations, so telco staff are required to check the coverage maps themselves and pass this information to the consumer.</p>	<p>The proposed obligation is for telcos to check critical locations. DC considers it should also be an option for a consumer to check coverage maps themselves as they may not be comfortable providing location information to the salesperson or would simply prefer to view and confirm the information themselves.</p>	

Mobile Network Coverage					
Org.	Issue	Comment	Suggested change to drafting (if applicable)	DC Comment	How it has been addressed
	<p>directs CSPs to the AMTA coverage map resource.</p> <p>3.A sales process requirement for telcos to check the critical locations where a consumer will be using their mobile service (home, work etc.), or direct the consumer to the telco's coverage map to review the likely performance of the service at the relevant location.</p> <p>4.An explicit requirement for telcos to have processes in place for consumers to exit contracts without paying termination fees if network coverage does not allow for adequate service usage as agreed at point of sale. This would include a requirement to have processes for management of any bundled telecommunications products (like handsets).</p>	<p>3.We cannot comment on the requirement to allow consumers exit contracts where coverage is poor without seeing the drafting of the provision in context.</p>			

Payment Methods					
Org.	Issue	Comment	Suggested change to drafting (if applicable)	DC Comment	How it has been addressed
ACCAN	<p>Desired Outcome</p> <p>Residential consumers can make informed decisions about the telecommunications products that best balances their needs and wants in relation to price, inclusions, convenience, available customer support options and payment options available.</p> <p>There is a range of competitive offerings in the market, including a choice of payment options.</p> <p>Costs for CSPs and consumers do not rise because of inflexible rules that are inappropriate for the target market.</p> <p>CSP and consumer exposure and risk of debt is minimised.</p>	<p>Re the <u>bolded paragraph</u>: ACCAN considers that this outcome does not reflect consumer preferences to have access to a variety of flexible payment options consistent with a competitive market. The removal of payment options by major market participants has resulted in markedly less consumer choice on payment options. ACCAN considers that minimum requirements for payments are an appropriate protection noting the issues identified with respect to direct debit.</p>		<p>Noted and the DC acknowledges ACCAN's view. The DC has taken the view that the focus should be on supporting competition in the market (supporting choice) and setting minimum standards in terms of ensuring that there is appropriate flexibility for consumers for payment.</p>	n/a
ACCAN	<p>Proposal – new requirements designed to require that payment method options are clearly disclosed</p> <p>New requirements would be introduced to make it easy for consumers to quickly identify whether a telecommunications service includes a payment option to suit their preference.</p> <p>Note: there will also be provisions in the Code to ensure consumers are informed, before sale, of the terms and conditions of the offering, including</p>	<p>ACCAN considers that alongside the details of the payment options provided in this section, the drafting of this code provision should include the details related to the relevant fees that a consumer may experience when utilising a payment method.</p>		<p>The inclusion of payment options in the CIS is a new proposed CIS requirement. We can include a requirement for that to link to further information, including about any fees that might apply to a payment method.</p>	<p>include requirement for any payment fee information to be included via a link from CIS</p>

Payment Methods					
Org.	Issue	Comment	Suggested change to drafting (if applicable)	DC Comment	How it has been addressed
	<p>payment terms and conditions and relevant information about associated bundled products.</p> <p>Sample drafting <u>Chapter 5- Responsible selling: Advertising and pre-sales information: The CIS [new clause]</u> 1. In the body of the document, each CIS must contain the following elements: a. details of payment options; b. [...];</p>				
ACCAN	<p>Proposal – see above</p> <p>Sample drafting <u>Chapter 8 - Billing and payments: Flexible payments (new clause)</u> 1. A CSP must offer reasonable payment flexibility at no cost to customers. This means that: 1. where direct debit is the only payment option offered, it must be free and provide a minimum level of flexibility and control to the customer, by allowing a customer to: i. nominate a direct debit date, or ii. choose a payment frequency option (e.g. fortnightly or monthly), or iii. reasonably defer a payment, without</p>	<p>ACCAN considers these provisions are insufficient to provide appropriate protections for vulnerable consumers and that at a minimum an alternative payment option must be provided to allow consumers to make payment and ensure continuity of service in the event of a failure of direct debit. ACCAN notes that alternative payment options such as credit cards would materially reduce the risk of disconnection due to non-payment.</p> <p>ACCAN considers that at minimum, consumers should be offered another fee free</p>		<p>We note that the proposed new rules include a requirement that customers be enabled to make a manual payment if the event of a failed direct debit. This would allow a customer to make a payment by a methods such as credit card, BPay or similar.</p> <p>We note that the proposed new rules include a requirement that customers be enabled to make a manual payment if the event of a failed direct debit. This would allow a customer to make a payment by a methods such as credit card, BPay or similar. We note the concern around the three options and propose to redraft so that nominated a direct debit date is mandatory, with the other two options remaining as options.</p>	re-draft to make the first option mandatory.

Payment Methods					
Org.	Issue	Comment	Suggested change to drafting (if applicable)	DC Comment	How it has been addressed
	<p>penalty.</p> <p>2.where direct debit flexibility cannot be offered, that at least two free payment options must be offered, where at least one of those payment options is not direct debit or equivalent</p>	<p>payment option in addition to direct debit. Should this not be adopted, ACCAN considers that the drafting of 1(a) to be altered to reflect a genuine desire to assist vulnerable consumers.</p> <p>1(a)(i) should be amended to:</p> <p>nominate a direct debit date, and</p> <p>1(a)(ii) should be amended to:</p> <p>choose a payment frequency option (e.g. fortnightly or monthly), and</p> <p>ACCAN considers that a minimum requirement of only one out of the 3 subsections of 1(a) is not sufficient in providing flexibility to consumers.</p>			
ACCAN	<p>Guidance: reasonably defer a payment.</p> <p>Reasonably defer a payment means that the customer is able to defer their payment for a time that reasonably allows them to move funds or make similar arrangements; at least 3-4 days would generally be</p>	<p>ACCAN considers that 10 business days is a reasonable time period for a payment deferral. ACCAN considers that this is reasonable as some vulnerable consumers may receive irregular incomes and this would</p>		<p>DC notes that the Financial Hardship Standard includes a requirement for payment deferral and proposes that the Code aligns with the Standard for consistency.</p>	<p>align with Standard</p>

Payment Methods					
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	<p>considered reasonable.</p> <p>It would be reasonable for a CSP to accommodate deferred payments or other change to the billing arrangement more than once, but it is not expected that a customer be able to defer payments regularly</p>	<p>not meaningfully disrupt the existing monthly billing cycle of many telecommunications providers. ACCAN considers that the DC should provide additional clarity on the amount of deferred payments accepted by providers in the TCP Code.</p>			
	<p>Guidance: reminder notifications</p> <p>Sufficient time will vary depending on the direct debit arrangement; debits to a credit card can generally be adjusted more quickly than those direct from a bank account. The latter may require as much as 5 working days' notice.</p> <p>Notification mechanism is not prescribed; CSPs have the flexibility to decide how to appropriately reach their customers. Additionally, CSPs may choose to allow customers to opt-out of notifications if they choose</p>	<p>ACCAN considers that CSPs must allow customers to opt out of notifications. Additionally, ACCAN supports provisions being placed in the Code which requires that providers engage with consumers on their preferred method of direct debit notification (preferably at the outset of the contract or the service provision).</p>		support proposal - no change required.	n/a
ACCAN	<p>Proposal – new requirement relating to failed Direct Debits</p> <p>A new requirement would be included in the Code around failed Direct Debits.</p> <p>Sample drafting</p> <p>1. CSPs must:</p> <p>a. promptly notify a</p>	<p>ACCAN considers that this provision of the sample drafting should be amended to require that providers communicate with the consumer in their chosen method of communication.</p>		The requirement to communicate with a customer via their chosen method is covered in another clause in the Code. We note that there are times where their preference is over-ridden (e.g. if the CSP is not sure that the message has been successfully	n/a

Payment Methods					
Org.	Issue	Comment	Suggested change to drafting (if applicable)	DC Comment	How it has been addressed
	customer if a direct debit fails, and			delivered)	
ACCAN	Proposal - see above Sample drafting 1.CSPs must: b. provide reasonable opportunity (3-4 working days) for the Customer to make funds to be available, change debit arrangements or make a payment by another method (without charge);	ACCAN considers that the DC should extend this reasonable opportunity to 10 business days. [where DD has failed, the proposal is to allow 3-4 days before retrying, ACCAN wants 10 days]		The DC considers that 3-4 days is reasonable, given that the customer will be able to request a payment extension as noted above and that the customer can also indicate Financial Hardship which under the new Standard will also mean they can request a payment extension or seek another form of financial assistance. DC believes 3-4 days is a reasonable timeframe for a CSP to retry the DD when there are no financial hardship circumstances, noting that at this point, the customer's payment is already overdue.	n/a
ACCAN	If the amount of a Direct Debit is incorrect, the CSP must either ensure that the Customer, receives a full and timely refund of any excess amount paid or undertake other appropriate action agreed with the Customer. Guidance: other appropriate action as agreed with the customer. This might include, for example, credit applied to the account; extra data; gift card.	ACCAN considers that the code should require that when offering other appropriate action agreed with the customer that the provider should always offer a full and timely refund and never present the options listed under the below guidance as the only remedies for an incorrect direct debit amount		Agree with ACCAN. This was not the intention. We have changed drafting/wording of the guidance so that the customer is always advised of their options for a refund. While a customer may prefer to receive a refund another way, this is never in place of their right to a refund.	re-draft guidance note (and rule if needed) for clarity
TIO	1.Requirement to include information about any applicable mandatory	1.We acknowledge the Drafting Committee's effort to draft		DC acknowledges that RC would prefer to have certain payment methods mandated	n/a

Payment Methods					
Org.	Issue	Comment	Suggested change to drafting (if applicable)	DC Comment	How it has been addressed
	<p>payment method in a product's CIS.</p> <p>2.A new requirement for telcos to provide flexibility for customers where they only offer direct debit as a payment option. The flexibility must be at no cost to customers and must include allowing the customer to nominate a direct debit date, or choose a payment frequency option, or reasonably defer a payment without penalty.</p> <p>3.Where a telco cannot offer direct debit flexibility, it must offer at least two free payment options, where at least one of the options is not direct debit or equivalent.</p> <p>4.New requirements to be inserted into clause 5.7.1, obliging telcos to 'provide a reminder notice [about an upcoming direct debit payment] in sufficient time for the consumer to make alternative arrangements for payment action if required'.</p> <p>5.Updated requirement for telcos to ensure a customer can access 'charging information' before a direct debit occurs. This replaces an existing requirement for telcos (subject to some exceptions) to give a customer at least 10 working days' notice to</p>	<p>obligations that give consumers flexibility when paying by direct debit.</p> <p>2.We have previously noted that direct debit payments are unsuitable for some consumers.</p> <p>3.For this reason, and to reflect the essential nature of telco services, consumers should always have the choice of paying via a free, non-automatic method.</p> <p>4.We would like to see clearer drafting around what the obligation to allow consumers to access charging information requires. It appears there are no proposed timeframes for when telcos must make this available and in some circumstances, this may result in consumers having less notice about upcoming charges than under current rules.</p>		<p>in the Code or at least the number of payment methods, however, as noted above, the DC takes the view that consumer outcomes are better met by focusing on flexibility of payment methods and ensuring customers are informed and have choice of offerings in the market. We also acknowledge that because we focused on the key area of payments (as directed by the ACMA) we have not yet fully considered the remainder of the billing chapter of the existing code. However, our initial analysis of the current billing requirements is that there would not be significant changes and that we would refresh and update the rules as per the outcomes and expectations for this chapter.</p>	

Payment Methods					
Org.	Issue	Comment	Suggested change to drafting (if applicable)	DC Comment	How it has been addressed
	check a bill or applicable charges before a direct debit occurs.				
TIO	<p>1.The proposals appear to be similar to the current clause 5.7.1(g) of the TCP Code for telcos to provide 'full and timely' refunds of incorrect direct debits or undertake 'other appropriate action agreed with the customer'.</p> <p>2.The insertion of guidance to the effect that 'other appropriate action' might include credit applied to a customer's account, a gift card, or extra data.</p>	We are concerned the lack of mandatory timeframes for refunds of erroneous or unauthorised direct debits makes clause 5.7.1(g) difficult to enforce and will not give consumers confidence they will receive timely refunds.		DC will align with the timeframe for complaints resolution (within 10 days?) for processing a refund, noting that in most cases a CSP will be able to process in a shorter timeframe but that the CSP will also be dependent on banking processing timeframes which may vary and be longer.	check timeframe and include
TIO	<p>Proposal - new requirements to require flexibility around payment methods</p> <p>Code drafting <u>Comment 1 The Outcome:</u> Chapter 8(i) "Customers have flexibility and control over their payment options."</p> <p>Sample Drafting <u>Comment 2 Sample Drafting:</u> <u>Chapter 8 - Billing and payments: Flexible payments (new clause)</u></p> <p>1.A CSP must offer reasonable payment flexibility at no cost to customers.</p> <p>This means that: a. where direct debit is the</p>	<p>Comment 1: The Outcomes listed in the draft outline appear to address the concerns raised by TIO for example 8(i) largely aligns with our position on what would protect vulnerable consumers i.e., from elderly or less technologically-literate consumers who struggle to review their charges when their telco does not issue traditional bills and instead uses online payment summaries.</p> <p>Comment 2: However, the sample drafting in Payment Method Paper does not address the</p>	For clarity, we again recommend that the Code should require providers to offer at least one fee-free method of payment that is not automatic nor based on direct debit.	As noted above the DC acknowledges the TIO view on payment methods and we note that the DC takes the view that consumer outcomes are better served by ensuring there is flexibility and informed choice for consumers. It would be a fundamental change, particularly for smaller, digital only CSPs to make to their business model if the code imposed such commercial terms and conditions on CSPs. The cost of such a change would be significant. We also note that the proposed approach will also impose costs on CSPs in terms of offering flexibility around direct debit payments.	n/a

Payment Methods					
Org.	Issue	Comment	Suggested change to drafting (if applicable)	DC Comment	How it has been addressed
	<p>only payment option offered, it must be free and provide a minimum level of flexibility and control to the customer, by allowing a customer to:</p> <ul style="list-style-type: none"> i. nominate a direct debit date, or ii. choose a payment frequency option (e.g. fortnightly or monthly), or iii. reasonably defer a payment, without penalty. <p>b. where direct debit flexibility cannot be offered, that at least two free payment options must be offered, where at least one of those payment options is not direct debit or equivalent.</p>	<p>outcomes intended.</p> <p>The sample drafting appears to allow providers to offer only a single direct-debit payment option, so long as that option allows a minimum level of flexibility, such as nominating the debit date, choosing a payment frequency, or reasonably deferring payments. It only requires providers to offer alternative payment options if direct debit flexibility cannot be offered.</p> <p>This proposal does not appear to meet the stated outcome of ensuring consumers have "flexibility and control over their payment options." It does not provide flexibility to consumers who cannot access the technology to review DD payments, who do not trust DD payment methods, or who otherwise require alternative payment methods.</p>			
TIO	Billing - lack of a paper on Billing generally			For this December deadline, we have focused on key areas	n/a

Payment Methods					
Org.	Issue	Comment	Suggested change to drafting (if applicable)	DC Comment	How it has been addressed
				as directed by the ACMA. We have therefore focused on payments not billing at this point. See above (row 10) for fuller explanation.	
TIO	<p>Proposal - new/extended requirements around notifications to remind consumers of impending direct debits. Sample Drafting</p> <p><u>Chapter 8 – Billing and payments: Direct debit payments (updated and extended cl. 5.7.1)</u></p> <p>1.A CSP offering direct debit as a payment facility for a Telecommunications Service must not charge a fee for the option of direct debit and:</p> <ul style="list-style-type: none"> a. must ensure they have the Customer's authorisation; b. must ensure that the Customer can access charging information before the Direct Debit occurs (updated; new guidance); c. must ensure that the Customer can readily verify that its Direct Debit arrangements are in accordance with their authorisation; d. [new] must provide a reminder notice in sufficient time for the Customer to make 	<p>Similarly, the proposed clause around verifying charges requires only minimum accessibility to charging information, such as ensuring that consumers can access their charging information through an app. This requirement may further marginalise those vulnerable consumers who may not have the technical literacy to verify their charges.</p>	<p>For clarity, we again recommend that the Code should require providers to offer at least one fee-free method of payment that is not automatic nor based on direct debit.</p>	<p>DC acknowledges the TIO's views and notes the DC view outlined above. While we take the point that charging information via an app is less familiar to some customers, we also note that it is not too different to being emailed an invoice, however it is much more secure than email (and even traditional mail) and enables customers who are concerned about scams to trust the information. We note that customers who have low technical literacy are also a cohort particularly vulnerable to scams. We also note that with upfront plans the amount the customer pays each month/fortnight is the same as charges are not variable, avoiding 'bill shock', limiting risk and building trust for the customer around their charging information.</p>	n/a

Payment Methods					
Org.	Issue	Comment	Suggested change to drafting (if applicable)	DC Comment	How it has been addressed
	<p>alternative arrangements for payment action if required;</p> <p>e. must ensure that a Customer, can readily cancel a direct debit authorisation through a simple mechanism; and</p> <p>f. must cancel the customer's Direct Debit within 3 Working Days of receipt of the Customer's cancellation request.</p> <p>Guidance Accessing charging information: E.g. make this available through an app, online, or automated balance phone service.</p>				

Responsible Selling Practices					
Org.	Issue	Comment	Suggested change to drafting (if applicable)	DC Comment	How it has been addressed
ACCAN	<p>Issue: Identified consumer problem</p> <p>Consumer safeguards at point of sale can be enhanced to protect consumers and prevent inappropriate sales of telecommunications products.</p> <p>Information provided to consumers at point of sale does not always include all the key information relating to the product being sold, including the terms and conditions or lower-cost options.</p> <p>Further, unsolicited over-the-phone sales can contribute to financial hardship, particularly for vulnerable consumers.</p>	<p>ACCAN considers that this framing of the problem does not appropriately capture all aspects of the problem faced by consumers.</p> <p>While information problems are an issue faced by consumer, mis-selling of products and services to consumers is a function of predatory sales practices due to conflicted incentives.</p>		<p>consider removing point 3 of the identified consumer problem re: over-the-phone sales. Believe this was raised by CALC, who is not engaging in the TCP code revision process. Key focus is on responsible incentives for sales representatives that do not promote inappropriate sales.</p>	<p>added to position paper: "Further consumer safeguards can be put in place to disincentivise instances of mis-selling, by promoting responsible selling practices, responsible incentive structures, and remedies for consumers."</p>
ACCAN	<p>Issue: Desired outcome from TCP Code revision</p> <p>Consumers receive all essential information at point of sale and the sale of inappropriate telecommunications products is reduced.</p> <p>Telco staff are able to discuss appropriate products for consumers' needs and can support consumers to understand the product they are purchasing.</p>	<p>ACCAN considers that this outcome needs to be revised to reflect that consumers should be supported to purchase products and services that reflect their preferences. ACCAN considers that the outcome does not reflect the need to protect consumers from mis-selling and predatory sales practices, which these code provisions should seek to achieve.</p>		<p>Can update to include this objective</p>	<p><u>Reworded Desired Outcome to:</u> "Consumers receive all essential information at point of sale and telco staff can identify and discuss appropriate products for consumers' needs.</p> <p>The sale of inappropriate telecommunications products is reduced by strengthening responsible selling obligations, training for representatives and responsible incentive structures. "</p>
ACCAN	<p>Proposal – updated/clearer information-provision requirements</p>	<p>ACCAN considers that due to the lack of drafting in this provision,</p>		<p>The DC acknowledges ACCAN's concerns in relation to communicating with</p>	<p>Communication with vulnerable consumers is addressed in a separate</p>

Responsible Selling Practices					
Org.	Issue	Comment	Suggested change to drafting (if applicable)	DC Comment	How it has been addressed
	<p>New and updated clauses (and guidance) will make expectations and rules clearer.</p> <p>Sample drafting <u>Chapter 6 - Responsible selling:</u> <u>Sales, contracts and credit assessments: Point of Sale,</u> <u>[update current cl 4.5.1 (b)]</u> 1. During the sales process, a CSP must ensure:</p> <ol style="list-style-type: none"> [...] it clearly explains the essential information of the telecommunications product the consumer is purchasing; 	<p>we are unable to fully comment on the nature of critical consumer protections in this section of the position paper.</p> <p>ACCAN would seek more clarification from the DC on the nature of clear communication of essential information. What requirements exist in this section for providers to communicate with consumers with a disability which impacts their communication or a consumer from a culturally or linguistically diverse background?</p>		<p>vulnerable customers. Requirements for communication with vulnerable customers exist in a separate chapter of the Code, with the intention that they apply to the code in its entirety, to limit repetition. This will be more apparent in the complete paper. Requirements include training, organisational culture, accessibility, etc.</p>	<p>paper and Code chapter.</p>
ACCAN	<p>Proposal - see above</p> <p>Sample drafting <u>Chapter 6 - Responsible selling:</u> <u>Sales, contracts and credit assessments: Point of Sale,</u> <u>[update current cl 4.5.1 (b)]</u> 1. CSPs must provide a customer with an order summary after entering into a customer contract with the consumer.</p>	<p>"CSPs must provide a customer with an order summary after entering into a customer contract with the consumer."</p> <p>ACCAN considers that customers must be provided with an order summary prior to their entering into a customer contract with the provider. This would facilitate the consumer obtaining a chance to review, in totality, the nature of their purchase before committing to the</p>		<p>The intent of the Order Summary is to provide a post-sale summary after the order is completed, with final details confirmed. Requirements for the provision of information prior to sale already exist and have been strengthened further with the introduction of the 'essential information' concept.</p>	

Responsible Selling Practices					
Org.	Issue	Comment	Suggested change to drafting (if applicable)	DC Comment	How it has been addressed
		contract. ACCAN considers that more requirements should be inserted into this section related to communicating order summaries to consumers in multiple accessible formats.			
ACCAN	Proposal - see above Sample drafting <u>Chapter 6 - Responsible selling:</u> <u>Sales, contracts and credit assessments: Point of Sale,</u> <u>[update current cl 4.5.1 (b)]</u> 2.The order summary must contain: a. the name of the CSP; b. the contact details of the CSP; c. the expiry date of the fixed term contract (if applicable); d. information about any special promotions, including: i. discounts or bonus entitlements; and ii. the expiry date of the special promotion; and e. a link to the CIS.	ACCAN considers that the order summary should contain the contact details of the telecommunications industry ombudsman, the national debt helpline and relevant financial counselling services.		The Order Summary is intended to be an easily readable summary of the purchase. Adding additional details may distract from the key info. The DC considers that the TIO/debt helpline contact details are better provided at different touchpoints. Further, this obligation applies to all types of service, even those that don't risk a debt - so telling customers about a debt helpline would be confusing.	
ACCAN	Proposal – Remedies for mis-selling The responsible approach to selling requirements will be updated to include more detailed examples of actions a CSP may take to address mis-selling.	ACCAN considers that the draft code should include a cooling-off period of one billing cycle covering contracts valued at over \$1,000 dollars. ACCAN considers this period reasonable		Cooling off periods are appropriate for unsolicited sales and there are economy-wide rules associated with this. Such a proposal would only appear to be relevant to a device purchase. Where there is a problem with the device	

Responsible Selling Practices					
Org.	Issue	Comment	Suggested change to drafting (if applicable)	DC Comment	How it has been addressed
	<p><u>Recommended remedies may include:</u></p> <ul style="list-style-type: none"> • returning the customer to the position they were in prior to the mis-selling of the telecommunications product • terminating a customer's contract without charge • providing a credit amount to the customer • waiving a debt on the customer's account • enacting a change of contract without penalty to the customer 	<p>and proportional as it allows consumers to identify where they may have been mis-sold products or services or may have entered into a payment arrangement where, in order to meet their payment obligations, they may enter financial hardship.</p>		<p>(e.g., not fit for purpose), there are protections elsewhere; or where a service is supplied without network coverage, this is covered elsewhere. The DC considers it more effective to look at remedies for mis-selling, responsible sales incentives, and other relevant protections.</p>	
ACCAN	Please see above	<p>ACCAN considers the proposed remedies insufficient when taking into account the nature of mis-selling in telecommunications. ACCAN considers that improving the protections experienced by consumers prior to being mis-sold a telecommunications product or service of greater importance than establishing extended remedies for mis-selling.</p> <p>In response to the proposed remedies for mis-selling listed in this section, ACCAN considers that should instances of mis-selling be</p>		<p>Drafting has been updated to reflect feedback.</p>	<p>updated drafting and position paper proposal wording.</p> <p>Chapter 6 - Responsible selling: Sales, contracts and credit assessments: Selling Policies, [new clause]</p> <p>1. A CSP must take reasonable steps to correct instances of mis-selling by providing a remedy that is tailored to and is appropriate in the circumstances for the customer, including by offering at least one of the following remedies to the affected customer:</p> <p>a. returning the customer to the position they were in prior to the sale; or</p>

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		<p>identified, CSPs must be mandated to take into account the harm caused by the instance of mis-selling to the consumer and it's negative impact on the consumer (For example, financial hardship, distress, inability to meet other payment obligations).</p> <p>ACCAN recommends the DC take into account that many instances of mis-selling are not uncovered or identified until sometime after their occurrence, leading to the opportunity for extended periods of consumer harm and stress. Additionally, providers may be distinctivised to identify instances of mis-selling due to the potential of having to provide financial remedy to consumers.</p>			<p>b. terminating a customer's contract without charge; or</p> <p>c. enacting a change of contract without penalty to the customer; or</p> <p>d. any other action or remedy agreed with the customer.</p>
ACCAN	<p>Proposal – Monitoring complaints about sales conduct</p> <p>The responsible approach to selling requirements relating to complaints monitoring will be refreshed to strengthen requirements to proactively identify and act when mis-selling</p>	<p>Comment 1: ACCAN considers that the drafting of this provision should be amended to reflect that the remedy MUST be tailored to and appropriate to the circumstances of the</p>	as above	<p>Comment 1: There is a large number of remedies available and what is most appropriate will vary on the circumstances. Drafting changed to 'is tailored'. The DC also notes that additional improvements have been made to this clause</p>	<p>Drafting has been updated in response to feedback, as above. Guidance added to explain tailored remedies.</p> <p>"Guidance: tailored remedies</p>

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	<p>occurs.</p> <p>Sample drafting <u>Chapter 6 - Responsible selling: Sales, contracts and credit assessments: Selling Policies, [new clause]</u></p> <p>1.A CSP must:</p> <ol style="list-style-type: none"> monitor complaints to identify possible mis-selling; and have policies and supporting materials to address mis-selling and sales conduct issues. 	<p>customer and must take into account the harm experienced by the customer as a result of mis-selling and possible credit management action taken against them.</p> <p>Comment 2: ACCAN considers that any termination of the customers contract should require that the provider ensure that the customer stays connected to a telecommunications service as to not impose a danger on the customer which may arise as a result of the customer experiencing the lack of a communications service.</p>		<p>since the position paper was provided to ACCAN, and these changes further strengthen consumer protections.</p> <p>Comment 2: Termination of the customer's account as a remedy would only occur with the customer's agreement. Customers WANT to be disconnected sometimes and should be permitted to do so.</p> <p>Telcos should not be obligated to ensure that the customer still has other telco services (even under another provider) if the customer has agreed to that action as a remedy.</p>	<p>A tailored remedy should consider, where appropriate, the customer's individual circumstances, the harm experienced by the customer as a result of the mis-selling, and the customer's preferred remedy, where reasonable."</p>
ACCAN	<p>Proposal - please see above</p> <p>Sample drafting <u>Chapter 6 - Responsible selling: Sales, contracts and credit assessments: Selling Policies, [new clause]</u></p> <p>2.A CSP must:</p> <ol style="list-style-type: none"> take reasonable steps to correct instances of mis-selling by providing a remedy that can be tailored to and is appropriate in the 	<p>Comment 1: ACCAN considers that there should be more detailed requirements regarding the frequency of the monitoring of complaints on behalf of CSPs. CSPs should be directed in regards to how often they should monitor complaints.</p> <p>Comment 2: Additionally, ACCAN considers that</p>		<p>Comment 1: The DC confirms that ongoing, regular, monitoring of complaints is intended, alongside the requirements in S18 and 19 of the Complaints Handling Standard which already require this and determines a minimum timeframe.</p> <p>Comment 2: This obligation is addressed in the Vulnerable Customers paper.</p>	

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	<p>circumstances for the customer, including by:</p> <ul style="list-style-type: none"> i. returning the customer to the position they were in prior to the sale; ii. terminating a customer's contract without charge; or iii. enacting a change of contract without penalty to the customer; and 	<p>CSPs must ensure that sales representatives are adequately trained to responsibly interact with vulnerable consumers.</p> <p>Comment 3: ACCAN considers that many consumers are unlikely to complain specifically with regard to mis-selling and will likely utilise terminology consistent with financial hardship (As mis-selling is associated with consumers experiencing debt as a result of financial hardship). Due to this, ACCAN considers that the DC should include provisions which require providers to monitor consumers experiencing financial hardship and actively investigate whether these consumers may have been mis-sold products and services.</p>		<p>Comment 3: Further to the DC's position on Comment 1 above; when monitoring complaints, CSPs look for patterns to try to work out a reason for a complaint rising - and then work to address the problem. All categories of complaints are monitored on an ongoing basis.</p>	
ACCAN	<p>Proposal - Selling policies for sales staff</p> <p>Requirements on CSPs will be introduced for commission or incentive structures to promote responsible selling, including a recommendation to claw back staff commissions from</p>	<p>ACCAN considers that claw backs on staff commissions from inappropriate sales are an inappropriate solution to address instances of mis-selling. Additionally, ACCAN considers staff claw backs a poor</p>		<p>The DC notes that our intent was in line with ACCAN comments, and drafting has been updated to strengthen responsible selling obligations in relation to incentives. Important to note that claw backs of commission was merely one suggested action, and was to</p>	<p>Updated drafting:</p> <p><u>Chapter 6 - Responsible selling: Sales, contracts and credit assessments:</u> <u>Responsible incentive structures [new]</u> 1.A CSP's incentive structures for its</p>

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	inappropriate sales. For example, responsible selling incentives may be based on customer satisfaction surveys rather than number of sales/items sold.	disincentive to mis-selling. Staff may engage in mis-selling for a period of time and due to the difficulty in genuinely identifying an instance of mis-selling, may leave the employ of the provider which inhibits their ability to claw back the commissions provided to the staff member. This may result in providers and consumers being given a false sense of security with regard to sales commission claw backs. ACCAN considers that this provision may provide for sales staff participating in mis-selling to commit instances of mis-selling in a short period of time and leaving the organization before reports of instances of mis-selling reach the provider, leading to consumer harm.		be included in guidance, not an enforceable clause.	<p>representatives must promote responsible selling practices.</p> <p>2.A CSP's incentive structures must not reward representatives who do not comply with responsible selling practices in Section 6.1 of this Code.</p> <p>Guidance also added to Position Paper: Guidance: incentive structures CSPs should consider how commission and incentive structures provided for its representatives can promote responsible, ethical selling and disincentivise mis-selling.</p> <p><u>Recommendations include:</u></p> <ul style="list-style-type: none"> • 'Claw back' of a representative's commission where sales have been identified as inappropriate or irresponsible • Incentives may be based on customer satisfaction rather than volume of sales • A CSP should have consideration of incentives in relation to volume, and how

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					pressure to sell enough to meet the next 'tier' or 'quota' of commission payment can incentivise irresponsible selling above what a customer needs.
ACCAN	<p>Proposal - see above</p> <p>Sample drafting <u>Chapter 6 - Responsible selling: Sales, contracts and credit assessments: Sales conduct of CSPs, [update current cl 4.5.1]</u></p> <p>1.A CSP must ensure: a. [...] b. commission and incentive structures for representatives promote responsible selling.</p> <p>Guidance - To provide examples of how this might be achieved</p>	ACCAN considers that providers must design sales incentive programs to avoid rewarding sales representatives for up-selling additional unneeded products or services to vulnerable consumers.		as above	addressed above
ACCAN	<p>Proposal – Sales to vulnerable customers</p> <p>We will introduce a new clause clarifying that customers can cancel services sold to them, where there is reasonable proof</p>	ACCAN would welcome further drafting in this section. ACCAN considers that through the process of cancelling a telecommunications		ACCAN's proposal that a customer "should be able to provide reasonable proof of vulnerability impacting them at the time of sale in order to cancel the service" is the	<p>Redrafted for clarity.</p> <p>1.Where a customer has purchased a telecommunications product while affected by a vulnerability that</p>

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	<p>of vulnerability that impacted their decision-making at the time of sale.</p> <p>Sample drafting <u>Chapter 6 - Responsible selling:</u> <u>Sales, contracts and credit assessments: Selling Policies,</u> <u>[new clause]</u></p> <p>1. Where the customer has provided reasonable proof of vulnerability at the time of sale, the CSP must allow cancellation of the purchased telecommunications product without charge.</p>	<p>product or service where the consumer has identified vulnerability to the CSP post an instance of mis-selling, CSPs must ensure that the customer is still connected to a basic telephone and mobile data service. ACCAN considers that customers should not have to provide evidence solely at the point of sale in order to be able to cancel their telecommunications service and should be able to provide reasonable proof of vulnerability impacting them at the time of sale in order to cancel the telecommunications product or service without charge.</p> <p>Additionally, ACCAN would query how providers will determine what indicators of vulnerability are reasonable with regard to a customer's ability to cancel a telecommunications product or service without charge.</p>		<p>intended outcome of the clause. We will be redrafting for clarity to reach the intended outcome.</p> <p>Intention is that where a customer has purchased a product, and they were impacted by a vulnerability that affected their decision-making at the point of sale, they may provide evidence of this after the fact and the CSP cancels their product without charge.</p>	<p>impacted their decision-making at the point of sale, a CSP must allow cancellation of the purchased telecommunications product without charge, where reasonable proof of vulnerability has been provided.</p> <p>Guidance has been added to the Position Paper for further clarity.</p>
TIO	Outcomes and Expectations	Would like to see the Outcomes and		We can update the outcomes and expectations to provide	These will be updated in the draft code.

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		Expectations strengthened so that there is a greater focus on conduct of providers at point of sale.		clarity on the intent (which is what the outcomes and expectations do). However, it is important to note that outcomes and expectations are not enforceable provisions in any case.	
TIO	Essential information	Key pieces of information are still missing from the "essential information" concept. Consumers would benefit from knowing the payment methods available for the service, and the provider's processes for cancelling a service.		The Essential information concept is specifically about the sale. Information about cancelling and service information such as payment methods is not appropriate here; these are in the CIS. There are obligations about information provided to customers about payment methods elsewhere.	
TIO	Mis-selling	no clear definition of 'mis-selling'		Noted, and we are aware of this. Guidance will be included in the Code to explain the concept of mis-selling.	Guidance on the meaning of mis-selling will be drafted.
TIO	<p>1.Update the requirements relating to the retention of information about consumer contracts so telcos are required to retain the following information:</p> <ul style="list-style-type: none"> - an order summary - the CIS, and - the Standard form of agreement (or equivalent). <p>1a. The 'order summary' is a new document CA has proposed telcos should be required to give to consumers after entering into a consumer contract</p>	<p>1.These proposals do not provide for the retention of sufficient documentary information for consumers, providers and the TIO to establish what a consumer agreed with their telco at sign-up.</p> <p>2.We are concerned the proposals do not provide any mandatory retention periods for documentation. This could lead to</p>	<p>1.The Code should require telcos to keep contractual information relevant to a sale for the duration of the contract plus 24 months following contract expiry.</p> <p>1a. These records should include the full set of interactions that occurred between the consumer and the telco as part of the sale.</p> <p>2.The Code should contain explicit</p>	<p>There are already sufficient obligations in the current code to retain customer contract details for a minimum term of the duration of the contract, plus 2 years. Further record-keeping obligations exist under consumer law and other Telecommunications-specific regulations.</p>	

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	<p>with that consumer. The order summary must contain:</p> <ul style="list-style-type: none"> - the name of the telco - the contact details of the telco - the expiry date of the fixed term contract (if applicable) - information about any special promotions, including discounts or bonus entitlements and the expiry date of the special promotion, and - A link to the CIS <p>1b. There are no proposed timeframes for which this information must be retained.</p>	<p>significant inconsistency in approach between telcos and hamper the ability of consumers and telcos to deal with contract disputes effectively and fairly.</p>	<p>obligations for telcos to retain all records relevant to the sale for 24 months for marketing activities or for the duration of the contract (recommendation 5 from our submission).</p>		
TIO	<p>1.Requirements for telcos to supply 'Essential information' to consumers at various points in their relationship with their telco.</p> <p>1a. The 'Essential information' would include:</p> <ul style="list-style-type: none"> - the name of the telco - a description of the telecommunications service - the minimum periodic cost (where calculable) - the minimum term of the offer - the minimum quantifiable 	<p>1.In general, these proposals could be strengthened.</p> <p>2.Key pieces of important information have been omitted from the proposed definition of 'Essential Information', such as the payment methods offered for a service and a telco's required process for cancelling a service.</p> <p>3.The proposed 'Essential</p>	<p>1.The Code should include specific remedies a telco must offer to a consumer if the consumer is induced to buy a telco product by incorrect or misleading information from the telco. The remedies should be modelled on those available under the ACL for breaches of its prohibitions on misleading, deceptive or unconscionable conduct</p>	<p>TIO proposal 1: The code does include remedies for instances where a consumer purchases a product relying on inaccurate information, in addition to general clauses about remedies where a product is mis-sold:</p> <p>6.1.5. Where a customer has relied on inaccurate information provided by the CSP about an offer to make a purchasing decision, the CSP must provide the customer with</p> <ul style="list-style-type: none"> (i) corrected information about the offer; and 	

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	<p>price of the offer</p> <ul style="list-style-type: none"> - the minimum term of any discounts of benefits (where relevant), and - information on mandatory bundled products included with the base telecommunications product (where relevant) <p>2.Telcos would be required to include the Essential information in CISs, and in the body of advertising for telecommunications products.</p> <p>3.An obligation for telcos to clearly explain Essential Information about a telecommunications product to consumers during the sales process.</p> <p>4.A separate obligation for telcos to outline the difference between special promotional offers and the base offer during the sales process.</p> <p>5.An obligation for telcos to give consumers an 'order summary' after entering into a consumer contract.</p> <p>The order summary must contain:</p> <ul style="list-style-type: none"> - the name of the telco - the contact details of the telco - the expiry date of the fixed 	<p>Information' and order summary requirements will provide some important information for consumers but will not ensure they have a comprehensive record of what they agreed with their telco.</p> <p>4.The proposed requirements relating to telcos' sales commission structures are not explicit or prescriptive enough.</p> <p>5.The proposed remedies for mis-selling may not be prescriptive enough to provide effective consumer protections. Nor are the provisions relating to sales induced by incorrect information from a telco.</p> <p>6.We are concerned about the suggestion consumers should need to provide evidence of their vulnerability in order to get a remedy for some inappropriate sales. This provision is likely to</p>	<p>(recommendations 1 and 2 from our submission)</p> <p>2.The Code should contain clear obligations for telcos to give consumers written information showing the entire content of their agreement at the time they sign up for services, and for telcos to retain this information (recommendation 4 from our submission)</p> <p>3.To better align with the ACMA's expectations, the Code should contain clear, positive obligations for telcos (including in individual sales interactions) not to sell products inappropriately.</p>	<p>(ii) a remedy that is tailored to and is appropriate in the circumstances for that customer.</p> <p>TIO proposal 2: The new Order Summary strengthens existing obligations by providing a written summary of the details of the customer's order, in addition to the SFOA and CIS. this makes up the entirety of the consumer contract and will be provided to customers:</p> <p><u>Chapter 6 - Responsible selling: Sales, contracts and credit assessments: Customer contract, [update cl 4.6.5]</u></p> <p>1.A CSP must keep the following records regarding the customer contract:</p> <ul style="list-style-type: none"> a. the order summary; b. the CIS; and c. Standard Form of Agreement (or equivalent). <p>TIO proposal 3: Agree, and the DC notes that the draft code does contain many clear positive obligations for responsible selling throughout the "Responsible Selling: Sales, contracts and credit assessment" chapter.</p>	

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	<p>term contract (if applicable)</p> <ul style="list-style-type: none"> - information about any special promotions, including discounts or bonus entitlements and the expiry date of the special promotion, and - A link to the CIS <p>6.The inclusion of some detailed examples of actions telcos may take to address mis-selling. It appears the intent is for this to be non-binding guidance.</p> <p>7.An obligation for telcos to allow cancellation of telco products without charge where a customer provides 'reasonable proof of vulnerability at the time of sale'.</p> <p>8.Requirements for telcos' commission and incentive structures to promote responsible selling, including guidance for how this might be achieved. CA has suggested a 'recommendation to claw back staff commissions from inappropriate sales'.</p> <p>9.Updates to the Code's responsible approach to selling obligations to strengthen requirements to proactively identify and act with mis-selling occurs. This</p>	<p>be more effective if it instead places a positive obligation on telcos not to make inappropriate sales to vulnerable consumers, and to release affected consumers from their contracts where this occurs.</p>			

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	<p>would include an obligation for telcos to monitor complaints for instances of mis-selling and take reasonable steps to correct those instances by giving them 'a remedy that can be tailored to and is appropriate in the circumstances for the customer'.</p> <p>9a. Sample drafting for this obligation provides the following (non-prescribed) examples of appropriate remedies:</p> <ul style="list-style-type: none"> - returning the customer to the position they were in prior to the sale - terminating a customer's contract without charge, or - enacting a change of contract without penalty to the customer <p>10. A new obligation, where a consumer has relied on inaccurate information provided by a telco about an offer to make a purchasing decision, for the telco to give the consumer:</p> <ul style="list-style-type: none"> - corrected information about the offer, and - a remedy that is appropriate in the circumstances. 				

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Industry	<p>Proposal – Sales to vulnerable customers We will introduce a new clause clarifying that customers can cancel services sold to them, where there is reasonable proof of vulnerability that impacted their decision-making at the time of sale.</p> <p>Sample Drafting <u>Chapter 6 - Responsible selling: Sales, contracts and credit assessments: Selling Policies, [new clause]</u></p> <p>1. Where the customer has provided reasonable proof of vulnerability at the time of sale, the CSP must allow cancellation of the purchased telecommunications product without charge. Where a customer has purchased a telecommunications product while affected by a vulnerability that impacted their decision-making at the point of sale, a CSP must allow cancellation of the purchased telecommunications product without charge, where reasonable proof of vulnerability has been provided.</p>	<p>Will there be an any guidance as to how this would work in practice?</p> <p>'reasonable proof' can be difficult to provide in many cases - or maybe it should shift the onus to the CSP instead of the customer? Maybe it needs to be 'where there is evidence that'?</p>		Guidance has been added.	<p><u>New guidance:</u></p> <p>Guidance: sales to vulnerable customers This clause does not require that the CSP request proof of vulnerability affecting the customer, rather, this is at the discretion of the CSP. Evidence may be sighted by the CSP, or retained in circumstances where the evidence is needed.</p> <p>Example 1 – a customer affected by a psychological episode purchases a product on a CSP's website. It becomes apparent to the CSP that the customer does not need the product only after a family member of the affected customer contacts the CSP. The CSP may require evidence that the customer was affected by a vulnerability that impacted their decision making at the point of sale, and once provided, can sight the evidence given, and issue a cancellation and refund.</p> <p>Example 2 – a customer becomes known to the CSP for repeatedly</p>

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					<p>purchasing multiple products, then cancelling them. The CSP becomes aware that the customer in question has suffered from a brain injury and does not recall purchasing the products repeatedly. In this scenario, it is advisable for the CSP to keep evidentiary materials on file to ensure the customer can be protected from making future purchases while affected.</p> <p><u>Example documentation:</u></p> <ul style="list-style-type: none"> • Statutory declaration • Medical letter • Letter from a support service used by the customer • Evidence from a state trustee or power of attorney
Industry	<p>Proposal – Sales to vulnerable customers</p> <p>We will introduce a new clause clarifying that customers can cancel services sold to them, where there is reasonable proof of vulnerability that impacted their decision-making at the time of sale.</p> <p>Sample Drafting <u>Chapter 6 - Responsible selling:</u></p>	<p>The way it is written if you have a vulnerability you can cancel. It should be amended to be that 'where a customer has been mis-sold due to a vulnerability that impacted their decision making...'</p> <p>Agree - the vulnerability needs to have been the</p>		Drafting has been changed for clarity.	<p>Changed to: (already addressed above)</p> <p>1. Where a customer has purchased a telecommunications product while affected by a vulnerability that impacted their decision-making at the point of sale, a CSP must allow cancellation of the purchased</p>

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	<u>Sales, contracts and credit assessments: Selling Policies, [new clause]</u> 1. Where the customer has provided reasonable proof of vulnerability at the time of sale, the CSP must allow cancellation of the purchased telecommunications product without charge	cause or contributed to the mis-selling. Because we will still sell services to vulnerable customers and if it is done responsibly, this rule would not apply.			telecommunications product without charge, where reasonable proof of vulnerability has been provided.

Vulnerable Customer					
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ACCAN	<p>Proposal – enhanced prominence and focus on meeting the needs of consumers in vulnerable circumstances, including through a new ‘supporting the consumer’ (or similar title) chapter</p> <p>The needs of those in vulnerable circumstances will be highlighted throughout the Code, as it is relevant to most chapters (e.g. advertising, sales, customers service and support, payments, debt management and disconnection), but would also be a key focus of an early chapter, ‘supporting the consumer’ (or similar title). This would include enhanced specific information and overarching requirements relating to vulnerable consumers, covering:</p> <ul style="list-style-type: none"> - Languages/translation requirements (ref: Languages Issues paper) - DFV (ref: DFV Issues Paper) - A consumer's right and ability to use an Authorised Representative (a current requirement under 3.5 but with clarifications and updates to update it in line with the Customer ID Determination and for clarity) 	ACCAN supports this section in principle however in the absence of expanded drafting, ACCAN cannot effectively comment on the proposed approach.		Noted - no comment.	No change

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	<ul style="list-style-type: none"> - A consumer's right and ability to use an Advocate (current 3.6, with updates/clarity changes) - Accessibility requirements (see new separate issues paper) 				
ACCAN	<p>Guidance: What do we mean by 'a consumer in vulnerable circumstances'?</p> <p>A person experiencing (or at risk of experiencing) vulnerability is someone who experiences barriers accessing, engaging with, or maintaining telecommunications products.</p> <p>These barriers include event-based circumstances, personal/social circumstances and market-based factors. Examples include sickness, bereavement, unemployment, disability, language or literacy barriers, age, etc.).</p> <p>A person may be in a vulnerable situation temporarily, or long term.</p>		<p>Comment 1: ACCAN considers that the DC should widen the drafting scope of vulnerability to represent that it does not center around the consumers access to telecommunications but impacts the consumer's access, engaging or maintaining telecommunications products and services. ACCAN considers that the sample drafting should be amended to include telecommunications products and services.</p> <p>Comment 2: ACCAN considers that this list should be amended to include domestic and family violence and economic abuse. ACCAN considers that the DC should consider the definition of financial hardship located in the draft financial hardship standard when considering the factors</p>	<p>The definition of Telecommunications Product is Telecommunications Goods or Service.</p> <p>The list was intended to be examples, we can add DFV to the list.</p> <p>Note the interplay of the FH Standard. The Guidance is meant to be indicative only, not exhaustive.</p>	<p>Add Domestic and Family Violence example in the guidance note. Economic abuse is a form of DFV.</p>

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			that can contribute to consumer vulnerability.		
ACCAN	<p>Proposal – new/enhanced obligations in relation to CSPs’ organisational culture and policies.</p> <p>CSPs will be required have policies and support material to support an organisation culture that considers fair and reasonable consumer outcomes, including for those that may be in vulnerable circumstances. This will include, for example, being able to demonstrate that their organisational culture and practices appropriately supports compliance with this Code.</p>	ACCAN considers that these measures may be ineffective in addressing concerns around organisational culture.	ACCAN considers that if required, a thorough review of the organisational culture should be conducted by the ACMA and take into account the historical record of how a provider has interacted with vulnerable consumers.	<p>A culture of compliance is an important element of promoting fair outcomes for all customers, including customers in vulnerable circumstances.</p> <p>It is not within the remit of the DC to direct the ACMA to undertake a review of organisational culture. The Code revision is looking at improvement of processes into the future rather than historical behaviour.</p>	No change
ACCAN	<p>Proposal – new/enhanced obligations in relation to CSPs’ organisational culture and policies.</p> <p>This might be demonstrated through, for example:</p> <ul style="list-style-type: none"> - Systems and processes being in place to assist different vulnerable groups – for example, <ul style="list-style-type: none"> • specific contact channels for those experiencing domestic and family violence, financial hardship • information and tools to help create awareness of 		ACCAN considers that providers should be required to provide evidence of having undertaken these actions to the ACMA as part of the process of demonstrating a positive organisational culture.	Noted. The DC considers that evidence and measurement of compliance, as well as the availability of policies/processes forms part of the discussion around measures of success and metrics.	No change

Vulnerable Customer					
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	help available, and to support self-identification of vulnerability, and assistance to self-manage (e.g. through apps/website to manage payments, change plan, etc..) or seek customer support assistance.				
ACCAN	<p>Proposal – new/enhanced obligations in relation to CSPs’ organisational culture and policies.</p> <p>Sample Drafting <u>Chapter 4 - Supporting the Customer</u> 1. CSPs must have policies and supporting materials on the following, managed and overseen by a senior executive:</p> <ul style="list-style-type: none"> a. Vulnerable consumers; b. Domestic and Family Violence, including processes that consider the identification, support, and safety considerations for consumers affected by DFV; c. Accessibility, including digital accessibility. 		ACCAN considers that this list should be expanded to include Culturally and Linguistically Diverse consumers, including first nations consumers in rural, regional and remote communities.	The DC considers there needs to be flexibility in the way CSPs can develop policies for customers in vulnerable circumstances due to the size, scale, business model or market the CSP operates in. It is not appropriate to require separate policies on all every type of vulnerable customer cohort. Rather, a CSP should have consideration to different types of vulnerability as it develops its policies.	Guidance: A CSP should have policies that address customers in vulnerable circumstances. A policy on ‘vulnerable consumers’ may consist of a suite of policies that relate to specific types of vulnerability (e.g., domestic and family violence, accessibility, financial hardship, and others as the CSP considers appropriate to its size, scale and business model). It may have a generic ‘vulnerable consumer’ policy that addresses different types of vulnerability in the one document.
ACCAN	<p>Proposal - new/enhanced obligations in relation to CSPs’ training arrangements.</p> <p>Sample Drafting <u>Chapter 4 - Supporting the Customer: Staff training –</u></p>	See ACCAN comments on the position paper - Domestic and Family Violence. ACCAN considers that this statement should be revised.		Addressed via DFV Paper	

Vulnerable Customer					
Org.	Issue	Comment	Suggested change to drafting (if applicable)	DC Comment	How it has been addressed
	<u>company-wide</u> 1. CSPs must provide staff training to support compliance with Code obligations, including (where relevant): <ol style="list-style-type: none"> purpose and scope of the Code; vulnerable consumers; domestic and Family Violence, including training that considers the identification, support, and safety considerations for consumers affected by DFV; 				
ACCAN	Proposal - new/enhanced obligations in relation to CSPs' training arrangements. Sample Drafting <u>Chapter 4 - Supporting the Customer: Staff training – specialist staff</u> 1. Company-wide training must be supplemented by appropriately tailored training for specialist staff to suit their specific roles and responsibilities (where relevant). This includes: <ol style="list-style-type: none"> training on identifying, supporting and assisting vulnerable consumers; training on DFV for: <ol style="list-style-type: none"> frontline customer service staff; specialist DFV staff; 	For more detail on ACCAN's position regarding staff training to assist consumers experiencing DFV, see ACCAN's DFV policy position: https://accan.org.au/accans-work/policy-positions/2253-domestic-and-family-violence	ACCAN considers that this training should be conducted with reputable training providers, especially with regard to the experiences of vulnerable consumers. ACCAN considers that staff who are interacting with consumers experiencing DFV should undergo half yearly refresher training	Addressed via DFV Paper	No comment

Vulnerable Customer					
Org.	Issue	Comment	Suggested change to drafting (if applicable)	DC Comment	How it has been addressed
	<p>iii. staff working in areas likely to deal with DFV-related issues. This includes staff in sales, credit collections, financial hardship, fraud, privacy, and escalated complaints management roles.</p> <p>3. working with Advocates and Authorised Representatives.</p>				
ACCAN	<p>Proposal - new/enhanced obligations in relation to CSPs' governance arrangements.</p> <p>Sample Drafting <u>Chapter 3 – Organisational culture: Governance</u></p> <p>1. CSPs must be able to demonstrate that their organisational culture appropriately supports compliance with this Code.</p> <p>2. CSPs must establish specific governance arrangements to demonstrate compliance with this Code.</p> <p>3. Code compliance governance arrangements must be overseen by a senior executive officer.</p>	ACCAN welcomes more drafting on this chapter and cannot commend effectively on this chapter in its absence.		Noted.	No comment

Vulnerable Customer					
Org.	Issue	Comment	Suggested change to drafting (if applicable)	DC Comment	How it has been addressed
TIO	<p>1. Highlights the needs of vulnerable customers across several chapters of the Code, including in areas relating to Languages, Domestic or Family Violence, accessibility requirements and requirements relating to authorised representatives/advocates. The needs of vulnerable consumers would also be highlighted in the proposed 'supporting the consumer' chapter.</p> <p>2. New requirements relating to telcos' culture, practices, training and governance to support fair and reasonable outcomes for vulnerable consumers.</p>	1. We are supportive of these proposals in principle, but cannot comment further without seeing further detail of the drafting in context.	1. We will need to see fuller drafting in context before commenting further.	Noted - no comment.	No comment
Industry	<p>Proposal – new/enhanced obligations in relation to CSPs' organisational culture and policies.</p> <p>Sample drafting <u>Chapter 4 - Supporting the Customer</u></p> <p>1. CSPs must have policies and supporting materials on the following, managed and overseen by a senior executive:</p> <p>1. Vulnerable consumers;</p>	<p>A 'vulnerable consumer' policy is impractical and would have duplication across financial hardship, D&FV, accessibility or other policies. It should be clear that it may be a suite of policies that make up 'vulnerable customer' policy. Or a vulnerable consumer policy would be high level referencing the other policies (DF&V, accessibility, financial hardship etc.) and that the provider should have mandatory training to recognise vulnerability; how</p>		Relates to above comment from ACCAN. Include guidance to suggest that a vulnerable consumer policy can be a suite of policies or a single policy that addresses various types of vulnerability?	

Vulnerable Customer					
Org.	Issue	Comment	Suggested change to drafting (if applicable)	DC Comment	How it has been addressed
		frequently that training is provided and commitment to support customers in vulnerable circumstances.			
Industry	<p>Proposal - new/enhanced obligations in relation to CSPs' training arrangements.</p> <p>Sample drafting <u>Chapter 4 - Supporting the Customer: Staff training – company-wide</u> 1. CSPs must provide staff training to support compliance with Code obligations, including (where relevant):</p> <ol style="list-style-type: none"> purpose and scope of the Code; Vulnerable consumers; domestic and Family Violence, including training that considers the identification, support, and safety considerations for consumers affected by DFV; 	<p>Aligned with other feedback - may not be appropriate for all staff to receive training on the identification, support and safety considerations for consumers affected by DFV. Company wide training may relate to the awareness of the issue (as per DFV paper). Relevant staff should be trained in ID, support, and safety considerations</p>		Align with feedback in DFV Paper	

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Org.	Chapter	Clause	Comment	Suggested change to drafting (if applicable)	DC Comment	How it has been addressed
ACCAN	General Comment - Code Structure and Summary of Chapters	<ul style="list-style-type: none"> • Outcomes - the required outcomes for consumers, • Expectations - the high-level expectations about what RSPs need to do to ensure that these consumer outcomes are realised, • Rules - the minimum requirements / minimum compliance obligations on RSPs to meet the expectations, and • Measurement of Success (MoS) - details about what needs to be recorded and reported on to measure that high-level outcomes are being met (effectiveness metrics) and that rules are complied with (process metrics). 	ACCAN queries if the ACMA will be able to pursue compliance action against providers if their conduct does not meet the outcomes or expectations sections of the various code provisions.		No, Outcomes and Expectations are intended as guidance, only the Rules and MoS would be enforceable. Please note CA position paper on regulatory reform.	No changes.
ACCAN	2. GENERAL 2.1. Introduction and scope (Code Status)	2.1.2. The Code replaces TCP Code C628:2019 Incorporating Variation No.1/2020 upon Code commencement.	The existing TCP code is named C628:2019 Telecommunications Consumer Protections Code Incorporating variation No.1/2022 instead of No.1 / 2020.		Transposition error will be updated.	Updated
ACCAN	2. GENERAL 2.1. Introduction and scope (Compliance with the Code)	2.1.9. Guidance notes are included for additional assistance about how rules should be implemented to ensure outcomes and expectations are met. Compliance with guidance		ACCAN considers the Code should make explicit mention to the voluntary nature of the guidance notes present inside the Code.	Please note CA position paper on regulatory reform.	No changes.

Draft Outline New TCP Code						
Org.	Chapter	Clause	Comment	Suggested change to drafting (if applicable)	DC Comment	How it has been addressed
		in the Code does not guarantee compliance with the relevant clause of the Code or the corresponding provision of legislation or requirement of a regulator.		<p>ACCAN considers that the code should refer to section 106 of the Telecommunications Act 1997 (Cth) which notes that:</p> <p><i>'Compliance with an industry code is voluntary unless the ACMA directs a particular participant in the telecommunications industry, the telemarketing industry or the fax marketing industry to comply with the code.'</i></p>		
ACCAN	2. GENERAL 2.2 Relevant Documents	2.2.1. The Code should be read in conjunction with: [1.2] c) industry guidance, including: xii) Web Content Accessibility Guidelines (WCAG), http://www.w3.org/TR/WCAG/ ;	ACCAN would refer the DC to our comments on the "Position Paper - Accessibility" regarding our recommendations for providers to adhere to the most recent form of WCAG.		Noted, issues covered in response to Accessibility paper.	No changes.
ACCAN	3. ORGANISATIONAL CULTURE, POLICIES, TRAINING AND GOVERNANCE (overarching)		ACCAN supports this section in principle however in the absence of substantive drafting, cannot further comment on this section.		Noted	No changes.
ACCAN	4. SUPPORTING THE CONSUMER	Outcomes II. Consumers who are disadvantaged or vulnerable are appropriately supported throughout the customer journey.		ACCAN considers that Outcome II should be amended to more clearly articulate the treatment of vulnerable or disadvantaged consumers.	Clearer obligations are to be articulated in the Rules	II. Vulnerable consumers are appropriately supported throughout the customer

Draft Outline New TCP Code						
Org.	Chapter	Clause	Comment	Suggested change to drafting (if applicable)	DC Comment	How it has been addressed
						journey.
ACCAN	4. SUPPORTING THE CONSUMER	Expectations I. CSPs will provide information in a manner that is clear, accurate and accessible to consumers, and CSP representatives will also be trained to do so. II. CSPs will support the appointment of authorised representatives or advocates for consumers and will have in place policies to manage this process. III. If a CSP advertises products in a different language, it will also be able to provide support to consumers in that language.	ACCAN considers that the DC should include expectations regarding how providers should interact with vulnerable consumers.		Clearer obligations are to be articulated in the Rules. The DC notes ACCAN's comments in other papers that staff should be 'appropriately trained and resourced to assist customers with disability' and will incorporate this as an Expectation.	New Expectation added to Chapter 3 and 4: CSPs will provide appropriate training and resources to staff to enable them to assist and support vulnerable consumers.
ACCAN	5. RESPONSIBLE SELLING: ADVERTISING AND PRE-SALE INFORMATION 5.2. Rules: Critical Information Summary <i>(Critical Information Summary)</i>	5.2.2. A CIS must be available upon request for as long as the offer has active customers (including offers no longer publicly available)	ACCAN considers that the DC should examine the feedback of consumer advocates on the CIS present in the 2018 TCP code review and the 2020 consumer safeguards part c review. ACCAN's 2018 tcp code submission can be found here: https://accan.org.au/our-work/submissions/1528-tcp-code?highlight=WyJOY3AiXQ==		Noted. The purpose of the CIS is to act as a static set of key information about a telecommunications product. The DC has sought to address information asymmetries in a multitude of ways - changes to response selling practices, management of vulnerable consumers, the development of	No changes.

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Org.	Chapter	Clause	Comment	Suggested change to drafting (if applicable)	DC Comment	How it has been addressed
					the concept of 'essential information' and clearer drafting to support CSPs' understanding of the requirements under the Code when advertising their products.	
ACCAN	5. RESPONSIBLE SELLING: ADVERTISING AND PRE-SALE INFORMATION 5.2. Rules: Critical Information Summary <i>(Critical Information Summary)</i>	<u>Content of the CIS</u>		ACCAN considers that a hyperlink to the organisations' coverage map should be included in the CIS.	Coverage maps are not relevant for all telecommunications products	No changes.
ACCAN	5. RESPONSIBLE SELLING: ADVERTISING AND PRE-SALE INFORMATION 5.2. Rules: Critical Information Summary <i>(Critical Information Summary)</i>	<u>Content of the CIS</u> 5.2.7(e) a description of the impact of cancellation of a bundled telecommunications product (if relevant) [new];	ACCAN would seek clarification from the DC on the nature of 'impact' in this clause. Would this clause seek to make consumers aware of the cost of early cancellation or its impact on their services?		Yes, that is the intent. Further guidance will be drafted as part of the substantive drafting in 2024 to clarify this.	Develop guidance on the concept of 'impact of cancellation'
ACCAN	5. RESPONSIBLE SELLING: ADVERTISING AND PRE-SALE INFORMATION 5.2. Rules: Critical Information Summary <i>(Critical Information Summary)</i>	5.2.7(f) details of payment options [new];		ACCAN considers that the CIS should include an approximation of the fees associated with each payment option applicable for the CIS.	It would not be effective to include in the CIS, as charges are dynamic, and the CIS is static. To be included in the general billing page where the information can remain up to	No changes.

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Org.	Chapter	Clause	Comment	Suggested change to drafting (if applicable)	DC Comment	How it has been addressed
					date.	
ACCAN	5. RESPONSIBLE SELLING: ADVERTISING AND PRE-SALE INFORMATION 5.2. Rules: Critical Information Summary <i>(Critical Information Summary)</i>	5.2.7(i) information on translation services, displayed in community languages [new]		ACCAN considers that consumers should be directed to a free translation service which offers at least 10 community languages.	Please note response in Languages & Translation Services paper	No changes.
ACCAN	5. RESPONSIBLE SELLING: ADVERTISING AND PRE-SALE INFORMATION 5.2. Rules: Critical Information Summary <i>(Critical Information Summary)</i>	5.2.7(j) the CSPs customer service contact details [4.2.2(b) (xi)];		ACCAN considers that CSPs should be required to specify when these contact details are likely to be attended to by their representatives. For example, listing their available opening hours.	It would not be effective to include in the CIS, as the information may change, and the CIS is static. To be included in the general contact details pagers where can remain up to date.	No changes.
ACCAN	5. RESPONSIBLE SELLING: ADVERTISING AND PRE-SALE INFORMATION 5.2. Rules: Critical Information Summary <i>(Critical Information Summary)</i>	5.2.7.(I) contact details for the Telecommunications Industry Ombudsman [4.2.2(b) (xiii)].		ACCAN considers that the CIS should include the contact details for the national debt helpline in addition to the TIO. ACCAN considers that the CIS should explicitly state to consumers that these are free services. This would ensure that consumers are not	Agree to update that the TIO is free. Debt support information is not relevant for all telecommunications products (such as prepaid).	Update TIO reference to include information it is free to seek support.

Draft Outline New TCP Code						
Org.	Chapter	Clause	Comment	Suggested change to drafting (if applicable)	DC Comment	How it has been addressed
				discouraged from seeking assistance.		
ACCAN	5. RESPONSIBLE SELLING: ADVERTISING AND PRE-SALE INFORMATION 5.3. Rules: Advertising <i>(Content of advertising for general telecommunications information)</i>	5.3.4. When advertising telecommunication products, CSPs must ensure: [4.3.1] (a) the periodic price is prominently displayed; [new]		ACCAN considers that the DC should provide more clarified drafting on the definition of periodic price.	Will be a defined term once the DC commences substantive drafting in 2024. Not all products are monthly - e.g., some are six monthly or annual. The CIS price should reflect that.	Final drafting TBC
ACCAN	5. RESPONSIBLE SELLING: ADVERTISING AND PRE-SALE INFORMATION 5.3. Rules: Advertising <i>(Content of advertising for general telecommunication information)</i>	5.3.4. When advertising telecommunications products, CSPs must ensure: [4.3.1] (j) for mobile network coverage, display the underlying wholesale provider; and [new]	ACCAN supports in principle the inclusion of this requirement in the draft code.		Noted	No changes.
ACCAN	5. RESPONSIBLE SELLING: ADVERTISING AND PRE-SALE INFORMATION 5.3. Rules: Advertising <i>(Inaccurate advertising of</i>	5.3.6. CSPs must monitor complaints to identify possible inaccurate essential information in advertising. [4.4.1(c)]	Consumers should not have to process complaints regarding essential information in order for a provider to become aware that the information is inaccurate.	ACCAN considers that CSPs should conduct a yearly or half yearly review of the essential information provided to consumers.	Noted. The DC will be reviewing the MoS, including the annual attestation.	Final drafting of MoS TBC

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Org.	Chapter	Clause	Comment	Suggested change to drafting (if applicable)	DC Comment	How it has been addressed
	essential information)					
ACCAN	5. RESPONSIBLE SELLING: ADVERTISING AND PRE-SALE INFORMATION 5.3. Rules: Advertising <i>(Inaccurate advertising of essential information)</i>	5.3.7. Once a CSP is aware that an advertised offer contains inaccurate essential information, it must take reasonable steps to correct the advertisement in a reasonable timeframe. [4.4.1(b)]		ACCAN considers that the DC provide a fixed time for the correction of inaccurate essential information. Given the differences in medium, ACCAN considers that a maximum time period should be included by the DC.	It is not possible to outline a max time period, due to differences in advertising medium (as noted in Guidance)	No changes.
ACCAN	5. RESPONSIBLE SELLING: ADVERTISING AND PRE-SALE INFORMATION 5.4. Rules: Telecommunication product information <i>(Publishing information about telecommunication products)</i>	5.4.2. Information about telecommunication products currently offered must be made publicly available by CSPs without charge, including: [4.3.1] (d) information on the bill formats, billing options, billing period and payment options offered by the CSP; [4.3.1(d)]		ACCAN considers that information related to payment options should be accompanied by the related fees for the payment options.	Agreed.	5.4.2 Information about telecommunication products currently offered must be made publicly available by CSPs without charge, including: [4.3.1] (d) information on the bill formats, billing options, billing period and payment options offered by the CSP, as well as associated fees for payment options; [4.3.1(d)]

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Org.	Chapter	Clause	Comment	Suggested change to drafting (if applicable)	DC Comment	How it has been addressed
ACCAN	5. RESPONSIBLE SELLING: ADVERTISING AND PRE-SALE INFORMATION 5.4. Rules: Telecommunications product information <i>(Publishing information about telecommunications products)</i>	5.4.2.(g)(ii) information about the cost to send SMS, make and receive standard calls and for data usage as relevant (including information that roaming charges may be higher than charges for international calls from Australia and data usage may be more expensive, and that customers may be charged for both making and receiving calls while overseas); and		ACCAN considers that given the significant expenses that consumers may incur in relation to international roaming charges, that the DC should provide more clarity and information to providers on their responsibilities when providing consumers information on roaming charges.	Tidy up drafting. We also direct ACCAN to the Telecommunications Service Provider (International Mobile Roaming) Determination 2019, which contains clarity for CSPs on the information and alerts required to be provided to customers when roaming.	Updated to: (g) information about roaming (domestic and international), including information about: [4.3.1(h)] (ii) the maximum charge information for using the telecommunications service while overseas, as outlined in the Telecommunications Service Provider (International Mobile Roaming) Determination 2019; [new, link with Telecommunications Service Provider (International Mobile Roaming) Determination 2019]; and

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Org.	Chapter	Clause	Comment	Suggested change to drafting (if applicable)	DC Comment	How it has been addressed
ACCAN	6. RESPONSIBLE SELLING: SALES, CONTRACTS, AND CREDIT ASSESSMENTS	(Overarching)		ACCAN would welcome significant redrafting of the outcomes and expectations of this section by the DC with great consideration given to the experiences of vulnerable consumers. ACCAN considers that explicit mention should be made to the experiences of vulnerable consumers in the outcomes and expectations sections.	Noted	Final drafting TBC
ACCAN	6. RESPONSIBLE SELLING: SALES, CONTRACTS, AND CREDIT ASSESSMENTS	Summary Covers the requirements during the sale, to manage the direct interactions that form a sale as the general consumer becomes a customer.	ACCAN considers that this drafting is inappropriate in supporting vulnerable consumers. ACCAN considers that the drafting of Outcome I is unclear to providers and consumers. ACCAN considers that the Code should be more detailed in its framing of 'safeguards'.	ACCAN considers that the drafting of Outcome I should be revised to: <i>'Consumers are protected at the point of sale by policies and systems which ensure that they are prevented from being inappropriately sold telecommunications products and service.'</i>	Noted. Outcomes are focused on consumer outcomes - the language of 'policies and systems' best fits with the expectations on CSPs. The refreshed Code drafting is intended to deliver positive expectations - that is, the intention is to outline what a CSP must do, not what they must not. There is no need to add 'service' to the term telecommunications products, as the	<u>New expectation:</u> III. CSPs sales policies and supporting materials are designed to support responsible selling.

Draft Outline New TCP Code						
Org.	Chapter	Clause	Comment	Suggested change to drafting (if applicable)	DC Comment	How it has been addressed
					definition includes goods and services.	
ACCAN	6. RESPONSIBLE SELLING: SALES, CONTRACTS, AND CREDIT ASSESSMENTS	Outcomes I. Safeguards at point of sale to protect consumers and prevent inappropriate sales of telecommunication products. II. Consumers receive all essential information at point of sale. III. Consumers are supported to make informed decisions about which telecommunications products best suit their needs and circumstances.		<u>ACCAN considers that an additional outcome should be included:</u> <i>'Consumers are subject to comprehensive credit assessments which are used to inform the consumer's and the telecommunications provider's credit risk tolerance.'</i>	This is not relevant for all telecommunications products (prepaid)	No change.
ACCAN	6. RESPONSIBLE SELLING: SALES, CONTRACTS, AND CREDIT ASSESSMENTS	Expectations IV. CSPs support consumers to make informed decisions about which of the telecommunications products they have available best suits their wants, needs, and budget. V. CSPs take a responsible approach to selling telecommunications products		<u>ACCAN considers another expectation should be added to this section:</u> <i>'CSPs must take a responsible approach to selling telecommunications products and services to vulnerable consumers and take into account the individual consumers circumstances. Vulnerable consumers should not be up-sold telecommunication products and services.'</i>	Noted: however, this is not an Expectation, but a Rule. The refreshed Code seeks to avoid duplication. There are specific Rules proposed around selling based on identified needs (please see Vulnerable Customers paper) and for offers to align with a customer's needs and circumstances. Additionally, there are expectations set in the	<u>Updated Expectation I</u> I. Consumers are supported to make informed decisions about which telecommunications products best suit their needs and circumstances .

Draft Outline New TCP Code						
Org.	Chapter	Clause	Comment	Suggested change to drafting (if applicable)	DC Comment	How it has been addressed
					Supporting the Customer chapter for managing and supporting vulnerable consumers that will apply to all interactions. The definition of responsible selling will also contain concepts around supporting vulnerable customers.	
ACCAN	7.CUSTOMER SERVICE AND SUPPORT	Outcomes I. Customers are treated fairly and reasonably, so they are less likely to experience vulnerability and harm when accessing and maintaining telecommunications services. II. Customers can easily and conveniently contact their CSPs with enquiries or problems. III. Customer enquiries are managed effectively, and efficiently.	ACCAN considers that this drafting should be revised. Consumers can and primarily do experience vulnerability independently of their experiences with telecommunications providers.	ACCAN considers that this section should be redrafted to make appropriate reference to the customer service experience of consumers experiencing vulnerabilities in addition to consumers not experiencing vulnerabilities. ACCAN considers that the drafting should ensure that providers take into account the vulnerabilities of the customer in their engagement with the provider, this should be explicitly mentioned in the outcomes and expectations section.	Noted.	Outcomes I. Customers are treated fairly and reasonably, with their needs and circumstances considered so they are less likely to experience vulnerability and harm when accessing and maintaining telecommunications services. II. Customers can easily and conveniently contact their CSPs with

Draft Outline New TCP Code						
Org.	Chapter	Clause	Comment	Suggested change to drafting (if applicable)	DC Comment	How it has been addressed
						enquiries or problems. III. Customer enquiries are managed effectively and efficiently.
ACCAN	7.CUSTOMER SERVICE AND SUPPORT	Expectations I. CSPs will manage customers fairly and reasonably, with a proactive focus on limiting the impact of vulnerability experienced by customers to prevent harm when accessing and managing telecommunications products.	ACCAN supports the drafting in principle, however, queries the following drafting: 'with a proactive focus on limiting the impact of vulnerability experienced by consumers to prevent harm'.	ACCAN considers that this drafting should include "telecommunications products and services" ACCAN considers that this expectation should be redrafted and clarified.	There is no need to add 'service' to the term telecommunications products, as the definition includes goods and services.	Updated, see above.
ACCAN	7.CUSTOMER SERVICE AND SUPPORT	Expectations II. CSPs will provide customers with consistent and effective customer service, regardless of the communication method that consumers use to contact their CSP, including i. having a focus on meeting the needs of consumers;		ACCAN considers that this provision should be reworded to: <i>'focusing on meeting the needs of consumers, including the specific needs of vulnerable consumers.'</i>	Agreed.	II. CSPs will provide customers with consistent and effective customer service, regardless of the communication method that consumers use to contact their CSP, with consideration given to a consumers needs and circumstances.

Draft Outline New TCP Code						
Org.	Chapter	Clause	Comment	Suggested change to drafting (if applicable)	DC Comment	How it has been addressed
ACCAN	7.CUSTOMER SERVICE AND SUPPORT	Expectations I. CSPs will provide customers with consistent and effective customer service, regardless of the communication method that consumers use to contact their CSP, including iii. clearly communicating internal customer service escalation pathways; and iv. having a process for the ongoing management of a customer enquiry, including external referrals as appropriate.		ACCAN considers that drafting should reflect the requirements on providers to ensure that they respond to customer inquiries in a timely manner.	Noted; however, this is not an Expectation, but a Rule. The refreshed Code seeks to avoid duplication. These concepts can be explored further in the substantive drafting of this Chapter.	Final drafting TBC
ACCAN	8. CHARGING, BILLS, AND PAYMENTS	Outcome II. Customers have flexibility and control over their payment options.	ACCAN considers consumers should have flexibility over the fee free payment options provided to them. ACCAN commentary on this topic has been extensive and present in the following resources: ACCAN TCP code submission 2023: https://accan.org.au/accan-s-work/submissions/2147-tcp-code-discussion-paper-2023 ACCAN TCP code submission 2018: https://accan.org.au/our-		See responses to this issue in Payment Methods paper.	No changes.

Draft Outline New TCP Code						
Org.	Chapter	Clause	Comment	Suggested change to drafting (if applicable)	DC Comment	How it has been addressed
			<p>work/submissions/1528-tcp-code?highlight=WYJ0Y3AiXQ==</p> <p>ACCAN Consumer Safeguards Part C: https://accan.org.au/our-work/submissions/1804-csr-partc</p> <p>ACCAN direct debit research 2023: https://accan.org.au/accan-s-work/research/2121-direct-debit-in-telecommunications</p>			
ACCAN	8. CHARGING, BILLS, AND PAYMENTS	Outcome II. Customers have flexibility and control over their payment options.	ACCAN considers that in order for consumers to have flexibility and control over their payment options, they should be provided with a wide range of fee free payment options.		See responses to this issue in Payment Methods paper.	No changes.
ACCAN	8. CHARGING, BILLS, AND PAYMENTS	Expectations CSPs will provide information about bills and charges to customers arising out of the supply of telecommunications products.		ACCAN considers that this drafting should be amended to include: telecommunications products and services.	There is no need to add 'service' to the term telecommunications products, as the definition includes goods and services.	No changes.
ACCAN	9. CREDIT MANAGEMENT, DEBT MANAGEMENT, AND DISCONNECTION	Outcomes I. Customers are notified of potential credit and debt management activity. II. Customers are informed of the consequences of non-payment for telecommunications products, including the	ACCAN would direct the DC to our comments on the credit management, debt management and disconnection position paper as well as our comments on the 2023 proposed telecommunications draft financial hardship standard. ACCAN considers that the		See responses to this issue in Credit Management and Disconnection paper. Additionally, there are expectations set in the Supporting the Customer chapter for managing and	No changes.

Draft Outline New TCP Code						
Org.	Chapter	Clause	Comment	Suggested change to drafting (if applicable)	DC Comment	How it has been addressed
		restriction, suspension and disconnection of telecommunications services	<p>outcomes and expectations subsections of this section of the code should clearly make reference to the experiences of vulnerable consumers. ACCAN considers that this should be reflected as part of the outcomes and expectations section.</p> <p>Link to ACCAN comments on the draft financial hardship standard: https://accan.org.au/accan-s-work/submissions/2257-accan-response-to-the-acma-consultation-on-the-proposed-telecommunications-financial-hardship-industry-standard</p>		<p>supporting vulnerable consumers that will apply to all interactions.</p> <p>The refreshed Code seeks to avoid duplication.</p>	
ACCAN	9. CREDIT MANAGEMENT, DEBT MANAGEMENT, AND DISCONNECTION	<p>Expectations</p> <p>I. CSPs will have processes for restriction, suspension and disconnection for non-paying customers not in financial hardship.</p> <p>II. CSPs will provide sufficient notice to customers about credit and debt management activity, including suspensions, restrictions, disconnections, and referrals to debt collection agencies.</p>		<p>ACCAN considers that CSPs should be required to communicate to the consumer as part of any credit management, debt management or disconnection action that disconnection is an option of last resort. ACCAN considers that this expectation be amended to:</p> <p><i>'CSPs will ensure that disconnection is only used as an option of last resort and consumers at risk of</i></p>	<p>See responses to this issue in Credit Management and Disconnection paper.</p> <p>Proposed drafting are Rules, not Expectations.</p> <p>Additionally, there are expectations set in the Supporting the Customer chapter for managing and supporting vulnerable consumers that will apply to all</p>	No changes.

Draft Outline New TCP Code						
Org.	Chapter	Clause	Comment	Suggested change to drafting (if applicable)	DC Comment	How it has been addressed
		III. CSPs will treat disconnection as an option of last resort.		<i>disconnection are directed to the appropriate financial hardship or DFV support services offered by the telecommunications provider.'</i>	interactions. The refreshed Code seeks to avoid duplication.	
TIO	5. RESPONSIBLE SELLING: ADVERTISING AND PRE-SALE INFORMATION 5.2. Rules: Critical Information Summary <i>(Critical Information Summary)</i>	5.2.1. A CIS must be available for all current offers: 1. Drafting changes for some of the Code's existing obligations, including obligations relating to content requirements of CISs, and requirements relating to advertising. 2. These drafting changes rework the language of existing obligations without significantly changing the substance. There are some new features, such as: 2a. An obligation for CISs to be in a 'durable medium', and to contain a description of the impact of cancelling a bundled telecommunications product (there is some overlap here with what the Drafting Committee discussed in its	We support these changes in principle but would like to see the drafting in full context before commenting further.	We will need to see fuller drafting in context before commenting further.	Noted	No changes.

Draft Outline New TCP Code						
Org.	Chapter	Clause	Comment	Suggested change to drafting (if applicable)	DC Comment	How it has been addressed
		<p>Responsible Selling Policies and Essential Information position papers.</p> <p>2b. An obligation for telco advertising to prominently display the periodic price of a product.</p> <p>2c. An obligation for telcos to publish information about telco products in a manner that minimises the need for disclaimers.</p>				

Other Comments					
Organisation	Issue	Comment	Suggested change to drafting (if applicable)	DC Comment	How it has been addressed
TIO	BILLING	The Drafting Committee has not provided issues or position papers on this topic and we are concerned stakeholder feedback in this area has not yet been addressed.	<p>1.The Code should contain a universal requirement for telcos to supply bills to their customers before charges for a billing cycle come due or are deducted (recommendation 22 from our submission).</p> <p>1a. The requirement should apply irrespective of the consumer's payment method. Bills should include an itemised list of all charges and service usage information for the relevant billing period (recommendation 22 from our submission).</p> <p>2.The Code should also require telcos to provide bills that are simple and easy to understand (recommendation 23 from our submission).</p>	For this December deadline, we have focused on key areas as directed by the ACMA. We have therefore focused on payments not billing at this point.	n/a



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**COMMUNICATIONS
ALLIANCE LTD**

Level 12
75 Miller Street
North Sydney
NSW 2060 Australia

Correspondence
PO Box 444
Milsons Point
NSW 1565

T 61 2 9959 9111
F 61 2 9954 6136
E info@commsalliance.com.au
www.commsalliance.com.au
ABN 56 078 026 507

Care should be taken to ensure the material used is from the current version of the Standard or Industry Code and that it is updated whenever the Standard or Code is amended or revised. The number and date of the Standard or Code should therefore be clearly identified. If in doubt please contact Communications Alliance

Communications Alliance - Proposed Regulatory Reform Package

Industry thoughts on how to improve and streamline the Australian co-regulatory framework, while preserving its inherent strengths and value

1. Amend the *Telecommunications Act 1997* (and other legislation/regulation as necessary) to provide:
 - potentially a new definition for companies who resell services (e.g., passing on information, billing etc.) to CSPs or other resellers (i.e., they do not sell directly to 'the public' themselves and, therefore, are not CSPs) – further analysis and discussion with all parties required;
 - an improved requirement for all relevant CSPs (i.e. those serving consumers and/or small businesses) to join the TIO scheme;
 - a simple process for all CSPs to be required to be (publicly) registered by the ACMA, under a framework that is not onerous for CSPs (bearing in mind in particular the relatively limited resources available to many smaller CSPs). *It should be noted there was not necessarily consensus on this question among CA members;* and
 - that all Consumer-related Industry Codes be deemed as directly enforceable, not - as currently is the case - voluntary in the first instance and thereafter enforceable. (Currently, the ACMA first has to identify evidence of a code breach and, subsequently direct a CSP to comply with an Industry Code. In the event that direction is not been complied with, further enforcement action by the regulator can commence.) The ACMA should retain the ability to issue formal warnings and to keep afoot previous directions to comply when a Code is revised or replaced;
 2. Agree that the ACMA should work with CA and TIO on an annual works program with a view to early engagement on regulatory instruments that are due for review. This program should include shared efforts to ensure that all CSPs are aware of their obligations under direct and co-regulatory instruments. It should also include clear and early Statements of Expectation from the ACMA to industry in relation to upcoming reviews/revisions.
 3. Industry and ACMA to commit resources to all steps of the development or review/revision (where possible) within a defined agreed timeframe. The ACMA should examine how to delegate more authority to ACMA staff to provide industry with early and reliable feedback on proposals.
-

Minutes from RC meetings



COMMUNICATIONS ALLIANCE

TCP Code Review Committee Meeting No. 1, Final Minutes

Date: 05 September 2023

Time: 11:00 AM – 12:30 PM

1. Attendance

Present	Organisation	Name, Position	Official Role
Independent Adviser		Michael Cosgrave	Independent Adviser
ACCAN		Gareth Downing, Deputy CEO	RC Representative
ACCC		Catriona Lowe, Deputy Chair Brenda Elferink, Assistant Director Mobiles Transmission & Consumer	RC Representative Supporting Officer
ACMA		Craig Riviere, Executive Manager, Telecommunications Safeguards Branch	RC Representative
Aussie Broadband		Eric Erikson, Regulatory Affairs Advisor	RC Representative <i>(Also in the DC)</i>
Department of Communications		Kathleen Silleri, Assistant Secretary, Consumer Safeguard Branch Andrew Symonds, Director, Codes and Standards Section.	RC Representative RC Representative
Optus		Lisa Brown, Senior Manager, Consumer Policy	RC Representative <i>(Also in the DC)</i>
Telstra		Bill Gallagher, Regulatory and Legal Executive	RC Representative
TIO		Cynthia Gebert, Telecommunications Industry Ombudsman	RC Representative
TPG		Annie Leahy, Regulatory Specialist	Substituting for Alexander Osborne, Head of Regulatory (RC Representative) (Annie is a DC member)
Twilio		Natasha Slater, Senior Manager, APAC Public Policy	RC Representative <i>(Also in the DC)</i>
Vocus		John Sexton, Manager Regulatory and Compliance - Telco	RC Representative <i>(Also in the DC)</i>
Comms Alliance		Peppi Wilson, Senior Manager	Chair
		John Stanton, CEO	-
		Jasmine Thai, Manager, Program Management	(secretariat support)



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2. Welcome and opening remarks

2.1. Role of committee

The Chair opened the meeting and welcomed participants, before briefly commenting on the role of the TCP Code Review Committee (RC). Key points:

- A primary role of the RC is to explore the 'trickier issues' that need to be resolved in the review and to work together towards practicable solutions that will deliver meaningful consumer outcomes. e.g., issues
 - about which there are opposing stakeholder views, or
 - for which there are practical barriers to achieving what has been suggested, or
 - where requested changes would likely lead to unintended consequences.
- It is expected that separate papers on these topics will be provided to the RC (as required). This was not possible for this first meeting because of the very tight timeframe and the need to review all inputs to stage one.
- It is expected that a number of issues will need to be considered out of session. Timeframes for response will be tight due to the December deadline imposed.
- Although meeting papers will include a table of issues raised/considered in the initial information-gathering stage of the TCP Code review and an initial high-level response from the drafting committee (as per the meeting 1 attachment), it is not proposed that the RC will work through the table line-by-line. The intent of providing the summary table is primarily to demonstrate transparency of process and give an indication of direction being taken (there are many updates etc. about which all stakeholders agree).

Note: refer also to the RC [Terms of Reference](#).

2.2. Members of Committee

Members introduced themselves (see attendance list).

The Chair noted that:

- The OAIC was invited to join the RC, as privacy is one of the key themes. They declined but will participate bi-laterally. The DC will meet with them next week.
- First Nations participation (bi-laterally or by joining the RC) was invited through the First Nations Digital Inclusion Advisory Group (FNDIAG) (Dot West), through the Department. No response has yet been received; the Department's assistance to follow-up on this matter was sought.

There was a brief discussion:

- Mr. Stanton thanked attendees for agreeing to participate in the RC, noting the seniority and caliber of representatives.
- Dr Downing suggested that it would be more appropriate to invite feedback through ACCAN's First Nation's representatives, as they were more focused on consumer issues than the FNAG and were better placed to comment on key issues such as mis-selling and credit assessments. ACCAN were thanked for the offer, and it was agreed that CA would follow-up with ACCAN on the issue.



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- Ms. Lowe questioned the composition of the group, raising concerns about the overlap with the TCP Code Drafting Committee (DC). The following points were made in response by Mr. Stanton and Ms. Wilson:
 - The review process for this review is new, redesigned to address feedback on previous reviews, and to allow for more efficient, wider, and deeper stakeholder engagement, which were expected to lead to better outcomes (clearer understanding of the issues and an informed response).
 - The anticipated opportunity for deep engagement is somewhat curtailed by the change of scope and much shortened timeframe for drafting arising from the decision to create a Financial Hardship Standard and require a draft Code by December 2023. However, CA's intent remains to engage as much as possible with the relevant stakeholders to produce a Code that meets its intended purpose.
 - Having DC members participate in the RC meetings was useful in ensuring that those responsible for drafting the Code understood firsthand the concerns of the RC.
- Mr. Cosgrave requested to introduce himself, advising that he would express his view about the RC composition in his remarks. (See next item)

Actions

Action Item 1.1: ACCAN to reach out to First Nation's consumer representatives concerning their potential participation in the TCP Code process.

3. Remarks from Michael Cosgrave, Independent Adviser (IA)

Mr. Cosgrave introduced himself and his role as IA. Key points:

- Ran the ACCC telecommunication regulatory function until 2021.
- His role as Independent Adviser to the TCP Code is to monitor and provide advice on the revision process to verify that it is fair, reasonable, and appropriately transparent.
- The IA's Terms of Reference, permit him to:
 - go to drafting committee where they think it is appropriate to do so. (He has not yet thought this necessary/appropriate.)
 - provide advice to the ACMA at various stages of the process.
- As already noted, the envisaged review process is not possible due to external factors. The extensive bilateral exercise that CA had envisaged is therefore not going to be feasible by the 15th of December.
- In relation to the composition of the group:
 - This Committee was designed as a primary feedback mechanism to the Drafting Committee.
 - Some organisations have decided to separate membership on each committee. However, other organisations, due to reasons of resourcing and other issues, have decided to have one representative on both committees.
 - In his view, there is no inherent tension being a member of both, and it may be beneficial for members of the drafting committee to hear the views of members of the review committee, as well as putting forth their input.



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4. Update on Financial Hardship (FH) Standard - scope, progress and consultation timeframes

Mr. Symonds provided an update on the FH Standard. Key points:

- The Department has finalised the Direction and Minister Rowland has/will announce it today.
- Changes were made to the draft Direction following consultation with stakeholders. Noted that it is intended that the Standard does not apply to very large businesses; it's focus is residential, not-for-profit and small business, but the latter has not been defined, acknowledging that scope and the definition of small business is something that is being reviewed and will need to be worked through during the consultation phase, along with the definition of financial hardship.
- The Financial Hardship Standard is to be determined by the 15th of February 2024, and commence in full by the 29th of March 2024.
- In response to CA concerns about the difficulty of identifying those who may be in financial hardship, the department noted that it is ultimately up to the ACMA to draft appropriate and reasonable rules to meet the objectives of the Direction – noting ACMA have an obligation under the Telecommunications Act 1997 to ensure they consider other factors.
- The draft Standard will reflect the Direction.
- ACMA noted that a 30-day consultation on the draft Standard will occur in mid-Oct. There will be some 1-on-1 sessions during this consultation. The draft Standard will reflect ACMA published reports *What Consumers Want – consumer expectations for telecommunications safeguards* and *Financial hardship in the telco sector: Keeping the customer connected*.

5. Review process and progress.

Ms. Wilson provided a summary of the work to-date on the Code:

- As noted earlier, a new process was designed (in consultation with key stakeholders) to address stakeholder feedback on previous reviews. Preparatory work started in 2022 including on:
 - designing the new process,
 - reviewing the SOE
 - drafting the discussion paper (which clearly flagged known issues that would be addressed in the review, including new DFV provisions, addressing ACMA's SOE (more focus on vulnerable consumers), issues of scope and clarity, inclusion of measurements of success.
 - restructuring the Code to address known issues e.g., those noted above.



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The new process comprises 3 stages:

- **Stage 1: Information Gathering** – information-gathering to set the foundations for the rest of the review and understand positions before starting any drafting. Comprising:
 - i. a public discussion paper (released May 2023)
 - ii. one-on-one discussions
 - iii. review and analysis of other relevant material.

Ms. Wilson advised that:

- i. 9 submissions were received; 8 are available on the CA website; OAI's was 'staff level only' and is not public, but their feedback has been/will be reflected in the summary reports without attribution.
- ii. Two one-on-one meetings were requested, both with individual consumers. These were positive and useful discussions. A summary report on these is available on the CA website.
- iii. Relevant material that is informing the review includes:
 - Numerous public reports, statements, and public commentary, including the ACMA SOE and the financial hardship reports (including but not limited to, the May 2023 early July 2023 reports); comments made at ACCAN's 2022 conference.
 - Relevant comments made in response to other processes, including ACCAN's reference in its 2023 submission to issues raised in earlier TCP Code review processes by it and its members (CALC, etc.), that it did not feel had been adequately addressed at that time; and ACCAN/CALC/WEjustice comments to CA in relation to the DFV Guideline.
 - Discussions with members and the ACMA over a number of years on 'digital only'; feedback on unclear wording; feedback over time from Commcom.

This stage is now closed.

- **Stage 2: Iterative drafting** – This is the current stage the review process is in.
 - Input from the submissions has been collated into a spreadsheet and sorted by topic. The DC has finished its initial review of all 160+ lines of input and is now starting to draft and to discuss/consult further with stakeholders* on issues raised, as required (i.e., where the commentary/problem to be addressed is unclear, where there's conflicting views, different options, likely unintended consequences, etc.)
 - *As appropriate. e.g., bilateral discussions directly with the stakeholder concerned; discussions through this RC; guidance from the IA.
 - It is also further developing its thoughts on metrics and structure in light of input received. (Broadly, after information on definitions, scope etc., the new structure looks at overarching issues of organisational culture and training and is then based on 'customer journey', from advertising and pre-sales behavior, through to post sales and beyond. Each chapter sets out outcomes (for consumers); expectations (on RSPs, to meet these outcomes) and rules (minimum requirements). The Code will also include Measurements of Success (MoS) and Reporting.)
 - It was noted that the anticipated deep engagement, designed to ensure the issue was properly understood and worked through, will not be able to be conducted as envisaged due to the as-yet-unclear change in scope due to the FH Standards and the shortened timeframe. However, the intent remains.



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- The key issues summaries provided as an attachment to this RC meeting will be posted on the website following each RC meeting (as part of the commitment to transparency).
- **Stage 3: Formal Consultation** – This is the part of the process that most people will be familiar with – the formal Code review process that includes a mandatory 30-day public comment period on a draft Code.

There was a brief discussion, with the following points raised:

- Given the compressed timeframe, should the DC focus on primary issues of concern, such as mis-selling, rather than Code restructuring?
- Industry members/CA advised that while this was the overarching intent,
 - a) restructuring had begun before timelines were changed;
 - b) restructuring was necessary to address some of the key issues raised, as the intent is that it will aid comprehension and compliance by industry and would also assist with issues of enforceability. It was acknowledged that managing it all in the new timeframe was indeed a concern, however, and that there may be 'place holders' in some less 'problematic' parts of the Code when it was presented in December.

6. Key issues for RC feedback.

6.1. Scope/Intent of Code

Issue: As the RC will have seen in the summary issues paper, there's questions about the Code's scope and intent, particularly relating to the type of organisation given protection under the code as currently written.

- The DC's understanding of the Code's intent (as outlined in the TA /ACMA guidance on the purpose of Codes, and as outlined in the ASIC summary of the purpose of protections in that space) is that extra consumer protections are commonly seen to be required where there is a significant imbalance in power, rights, and obligations of the two parties entering a contract.
- As currently drafted, the Code applies to 'consumers', which includes small business, with small business including those spending up to \$40,000 with the telco (with some exclusions). The ACCC suggested in its submission to the discussion paper that this should be updated to \$100,000. However, even the current definition captures many very large businesses that do not need the Code's protections.
- The DC noted that numerous other definitions of small businesses exist, e.g., the TIO, ABS and ACMA in the ID Determination all define it differently. And suggested that it might put forward a revised definition to the ACMA in the first instance.

RC Discussion.

There was a short discussion:

- The ACCC expressed a desire to understand the proposals in view in context – i.e., once the Code drafting was complete.
- The DC suggested that this was not possible/practical in the timeframe; this issue needs to be resolved prior to drafting being completed.



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- The ACMA indicated that it was willing to discuss proposals out of session.

Actions

Action Item 1.2: DC to discuss the consumer/small business definitional issues, and proposed new definitions, with the ACMA in the first instance (out-of-session, before the next meeting).

6.2. Duplication

Issue: There are clauses that directly duplicate obligations set out in other legislation/regulation, such as the requirement in the Code to comply with the Web Content Accessibility Guidelines, which is already a requirement under the Disability Discrimination Act 1992.

- The DC suggests that the Code should either reference relevant legislation /regulation in guidance notes or include clauses that provide telco-specific instruction on what must be done by telcos to meet their legal requirements in areas where industry-specific guidance adds value. (Noting the particular value of the Code providing clarity to small RSPs.)
- The DC is looking to understand the expectations of the RC on these issues, as removing duplicative clauses has been contentious in previous Code reviews.

RC Discussion.

Members of the RC commented:

- Mr. Cosgrave referenced ACMA's What Consumer's Want Report, noting that it talks about codes as being complimentary vehicles to substantive obligations; a risk minimisation for industry to ensure it doesn't breach other obligations.
- ACCC noted that it is not the job of the Code to define compliance with the law; the ACCC can and does take action as it sees fit based on its interpretation of compliance with the ACL, as is evidenced by the number of enforcement actions taken by ACCC. However, Code obligations can diminish the risk of non-compliance with the law and the focus ought to be to address poor consumer outcomes in the industry.

6.3. Payment methods

Issue: The current Code requires that suppliers provide one free billing method. Feedback has been that consumers need more options and control over payments. The DC is seeking guidance on whether Code requirements can focus on requiring more flexibility of payments only, or whether a second option other than an autopay for *all* providers is also required, noting that requiring all CSPs to provide a second method may result in unintended consequences, such as prices rising across the board, as specific 'digital only' services were sometimes designed to only have direct debit as an option, as that suited the customer base and reduced costs. Another concern is that providing another payment option will not achieve consumer outcomes such as less customers in financial hardship or having their services interrupted or decrease the amount the debt they incur.

RC Discussion.

The following points were noted:

- TIO: complaints received and speaking to Financial Counselling conferences suggests the Code needs to require both more flexibility plus more payment options. Concerning digital only providers there needs to be better information upfront provided to consumers. This is to ensure consumers are making the right choices and not getting into a relationship with a provider who does not offer the range of choices they need.



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- ACCAN: echo TIO's comments. Flexibility is a given, but the strong view that the Code should mandate that there be more than one type of payment other than Auto-payment, by every RSP, regardless of their business model and customer target. They see consumers having difficulty paying where there has been no alternative but direct debit. Consumers have had cash and gone to stores and been rejected because the staff was unable to help them.
- DC members: Every other market categorized by healthy competition is finding new ways to make it easier for consumers to purchase. Direct debit options make business cash flow management easier and reduce costs for industry (and therefore consumers). It is not clear that mandating extra payment options will lead to the desired consumer outcomes.
- ACCC: Agreed that just changing the payment options will not solve the issue of consumers getting into financial hardship. Need to understand the interaction with other elements of the TCP Code and with the FH Standard.
- ACCC also noted that this discussion was useful and suggested that this is what the RC should be focusing on. Ms. Wilson confirmed that that was the plan for future meetings.

It was **agreed** that the DC would write a more detailed briefing paper on the issue for the RC to consider.

Actions

Action Item 1.3: DC to provide written briefing to RC out of session, to include different options on ways the way forward.

6.4. Note on Privacy/Records

- Ms. Wilson noted that views on privacy/record keeping were diverse: some stakeholders suggested that far less information should be retained, particularly with the ever-increasing threat of data breach; some (like the TIO) wanted more information retained, for longer, to help with possible resolution of complaints.
- The DC is concerned that it will be difficult to resolve these issues in a timely manner, given there is a review of the Privacy Act currently underway, it will not be complete by December, and it will almost certainly impact the TCP Code content.
- CA has arranged a meeting with the OAIC in the first instance, next week (noting the Attorney General is leading the current Privacy Act review) and will likely be requesting RC input on this issue soon.

7. Other Business

None.

8. Next Meeting

Tuesday 10th of October 2:30pm – 4:30pm.



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Action Items

Status	No	Action Item	Comments
Items			
New or open as of 5 Sept			
New	1.1	ACCAN - To reach out to First Nation's consumer representatives concerning their potential participation in the TCP Code process.	
New	1.2	DC - To discuss the consumer/small business definitional issues, and proposed new definitions, with the ACMA in the first instance (out-of-session, before the next meeting).	
New	1.3	DC - To provide written briefing to RC re payment methods out of session, to include different options on ways the way forward.	



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TCP Code Review Committee Meeting No. 2, Minutes

Date: 10 October 2023

Time: 2:30 PM – 4:43 PM

1. Welcome and Attendance

The Chair opened the meeting and welcomed participants.

Present Organisation	Name, Position	Official Role
Independent Adviser	Michael Cosgrave	Independent Adviser
ACCAN	Gareth Downing, Deputy CEO	RC Representative
ACCC	Catriona Lowe, Deputy Chair	RC Representative
	Sarah O'Brien, Assistant Director, Mobiles, Transmission and Consumer Branch	Supporting Officer
ACMA	Craig Riviere, Executive Manager, Telecommunications Safeguards Branch	RC Representative
	Kathleen Stevenson, Assistant Manager, Telecommunications Performance and Regulation.	RC Representative
Aussie Broadband	Eric Erikson, Regulatory Affairs Advisor	RC Representative (Also a DC member)
Department of Communications	Kathleen Silleri, Assistant Secretary, Consumer Safeguard Branch	RC Representative
	Nicola Tuckerman, Assistant Director, Consumer Safeguards, Communications Services and Consumer Division.	Supporting Officer, substituting for Andrew Symonds, Director, Codes and Standards Section (Supporting Officer)
Optus	Lisa Brown, Senior Manager, Consumer Policy	RC Representative (Also a DC member)
	Melanie Rainey, Senior Manager, Public Policy.	DC Member
Telstra	Shona Fury, Senior Regulatory Adviser	Substituting for Bill Gallagher, Regulatory and Legal Executive (RC Representative) (Also a DC member)



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	Tarnya Wilkins, Senior Regulatory Specialist, Consumer and Regional Policy.	DC Member
TIO	Cynthia Gebert, Telecommunications Industry Ombudsman	RC Representative
	Erin Dempsey, Policy and Regulatory Affairs Lead.	Supporting Officer
TPG-Telecom	Alexander Osborne, Head of Regulatory	RC Representative
	Annie Leahy, Regulatory Specialist	DC Member
Twilio	Natasha Slater, Senior Manager, APAC Public Policy	RC Representative <i>(Also a DC member)</i>
Vocus	John Sexton, Manager Regulatory and Compliance – Telco	RC Representative <i>(Also a DC member)</i>
Comms Alliance	Peppi Wilson, Senior Manager Policy and Regulation	Chair
	John Stanton, CEO	-
	Jasmine Thai, Manager, Program Management	(secretariat support)

2. Minutes and Actions from last meeting

2.1. Minutes

The following comments and corrections were noted/requested about the draft minutes from meeting 1.

- Ms. Lowe:
 - Difficult to consider issues properly without seeing proposals in context; seeing the Code in its totality is important in understanding whether concerns have been addressed. Questioned whether there could be an extra final meeting scheduled to look at the entirety of what was proposed before it was submitted in December?
 - Requested that it be noted that Ms. Lowe, Mr. Downing, and Ms. Gebert all agreed at RC#1 that there needs to be more than one payment option in the Code.
- There was a short discussion.
 - Ms. Wilson advised that there would not be time for a 5th meeting but acknowledged that the request to provide context was reasonable, noting that it will not be a full code provided by 15 December.
 - Mr. Cosgrave reiterated DC's aim to provide a best-efforts document by December.
 - It was agreed that the DC would consider how to best accommodate Ms Lowe's request.



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- Mr. Downing supported Ms. Lowe's points. And advised that they also had minor drafting corrections, which they would provide by email.

Action Item 2.1	Mr. Downing – To send drafting corrections for the minutes of meeting 1.
Action Item 2.2	Ms. Thai – Resend out minutes from meeting 1 with comments and corrections from the RC.
Action Item 2.3	DC – to consider how best to accommodate Ms. Lowe's request for a 5 th RC meeting.

2.2. Actions from meeting 1

- Action item 1.1: open. Mr. Downing will continue to seek engagement from groups due to availability issues. ACCAN will continue to reach out to its networks and contacts.
- Action 1.2: complete (closed). See [stakeholder meeting, comment, discussion log](#) provided with agenda papers.
- Action item 1.3: open. The DC is still further considering this issue.

3. Report on bi-lateral meetings since last RC meeting

Ms. Wilson noted that the drafting Committee had held a number of bi-lateral meetings since RC1, with OAIC, the First Nation Digital Inclusion Advisory Group (FNDIAG), and the ACMA.

Discussions with FNDIAG have been reflected in the language issues paper; discussions with the OAIC are reflected in the Privacy and Retention Issues Paper, along with notes re the Government's response to the Privacy Review Report.

For further details see: [Stakeholder meeting, comment, discussion log](#).

4. Key Issues for Discussion

Ms. Wilson invited individual members of the DC to present on each of the key issues, noting that the individual members presenting were talking on behalf of the DC not on behalf of their individual organisation.

Ms. Wilson also noted that there were overarching provisions that focused on vulnerable consumers covered in other chapters that were not mentioned in the current papers presented.

4.1. Domestic and Family Violence

Ms. Leahy presented on the issues paper that was circulated with agenda papers.

The paper was generally positively received, with the following questions/comments raised and responses received:

Scope/coverage questions:

- Ms. Lowe: With multiple obligations across several different instruments, there is a risk of confusion and therefore difficulty complying. Notwithstanding the risk of duplication, could all DFV-related obligations be together in one document/instrument to make it plainer and simpler? Noted that the Essential Service Commission Victoria (ESCV) provides a useful benchmark, with all the obligations in one document.



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- Mr. Downing: A lot of practical issues relate to disconnection, credit assessment and economic abuse. Agree with Ms. Lowe that there needs to be a comprehensive package because there will be critical pieces in the issues paper that are not spoken to, including the way CSPs treat disconnection, which is a significant concern to ACCAN, which has evidence of consumers being disconnected even after telling their CPSs that they are experiencing DFV.

Scope/coverage responses/clarifications:

- Ms. Leahy: The current obligations are necessarily split across different technical Codes – capturing all the different scenarios into a single instrument would be very complex. The updated Comms Alliance [DFV Guideline](#) makes these connections clear – including making clear where other, related mandatory obligations (in other instruments) lie – as well as providing operational best practice guidance. The new provisions proposed for the TCP Code mandate action in new areas (as presented) and clearly highlight the CSPs' obligations in the space.
- Ms. Wilson: The presentation of abuse is much more complicated in the telecommunication sector than in the electricity sector and managing the issues therefore also much more complicated. The Guideline document is a lengthy, comprehensive, best practice document and is the correct place for this detail. It would be impractical and confusing to include such detail in the TCP Code. However, the guidelines will be clearly referenced in the Code.
- Mr. Riviere: Agreed that reference to the guideline was useful. Noted that the Guidelines were distinctly separate from obligations under the Code and would not be enforceable.
- Mr. Cosgrave: Agreed that reference to the guideline should address the issue that Ms. Lowe raised around having multiple obligations in technical Codes and asked if this approach addressed her concerns. Ms. Lowe indicated that it might, but it would need to be assessed in context, noting that she was more accustomed to seeing all the obligations in one place, as seen in the Essential Service Commission Victoria's documentation.
- Ms. Leahy: The issues paper pack did not discuss disconnection as the Financial Hardship (FH) Standard would be directing on that. The direction around the FH Standard has outlined both credit and disconnection elements to it, so part of the work in the proposals for the Code is pending and subject to what is included in the FH Standard.

Training questions/comments:

- Mr. Downing: Could the proposed requirement for staff training be extended to require it be conducted with a reputable training provider? Additionally, it would be useful to have basic training on "dos and don'ts" around safety issues – e.g., basic training to ensure staff did not require two individuals in an abusive relationship to present together in store to sign documentation, collect devices, etc.
- Ms. Lowe: Supported Mr. Downing's comments and suggested that it would be useful to have training in relation to two distinct practices: (1) proactive identification of DFV customers and (2) appropriate procedures to follow once a DFV customer has been identified.

Training responses/clarifications

- Ms. Leahy: It is a Guideline recommendation that both policy and training are drafted / delivered in connection with a training provider. However, obligations must be flexible to



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allow smaller CSPs in particular to appropriately meet obligations to suit their business size and structure.

Access to support

- Ms. Lowe: Commended the proposed requirement to not require evidence of abuse in order to receive support and recommended that the Code make an absolute prohibition against requiring evidence of DFV.
- Ms. Gebert: Supported Ms. Lowe's comments re ensuring training enables staff to understand how to both identify and support consumers.

Access to support responses/clarifications

- Ms. Leahy: Confirmed that the intent is to clearly not require evidence of abuse before providing assistance, except where it is required under law (as presented). Noted that CA engaged with around 17 DFV support organisations as part of the Guideline review process and the approach taken in the Guideline received broad support.

4.2. Privacy and Record Retention

Ms. Rainey presented on the issues paper that was circulated with agenda papers.

The following questions/comments were raised, and responses received:

- Ms. Gebert: Concerned that removing detail about retention periods would cause confusion, interpretative differences, and non-compliance: if obligations are scattered over several different legislative and regulatory instruments, it is more difficult for CSPs to keep on track what their obligations are. Or for regulators to enforce provisions.
- Ms. Wilson:
 - Questioned whether the TIO could review their data to understand what information is required to respond to TIO complaint issues, particularly after 2 years (helping to hone in on what was useful, avoiding the expectation – and associated data risk – that everything be kept).
 - Questioned whether it was the Code's role/ in scope to repeat other regulation and suggested that it might be more appropriate and efficient to include such information in a separate guidance document (perhaps jointly drafted by the ACMA and CA?) that could easily be updated, and to reference that separate document in the Code.
- Mr. Osborne: Indicated a strong preference to include information in a separate document, not as a Code appendix. Noted that major organisations most likely already have a separate document outlining the obligations of retention period across different instruments.
- Mr. Downing: General support for a separate document to allow obligations to be clearly articulated and kept up to date. However, the Code should clearly include retention periods for billing to ensure consumers can resolve disputes and seek redress, so there should be a combination approach, with key record retention obligations in the Code, and links to the more comprehensive document. This would ensure smaller CSPs know their obligations.



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- Ms. Lowe: Supportive of the framework as discussed, with minimum retention period for compliance within the Code, with links to associated guidance on the broader legal obligations.
- Ms. Wilson: Noted that the ACMA had/used to have a document entitled "Know your obligations," (or similar title) which provided information on all CSPs' regulatory obligations (under different agencies, etc). She noted that this appeared to be a very useful document for smaller providers and new entrants in particular, and asked if the ACMA was – or could – consider revising the document. Mr. Riviere: was unaware of the document but agreed to look into it.

Action Item 2.4	Mr. Riviere/ACMA to consider request to update/publish a document outlining overarching obligations on CSPs to support education/compliance and report back.
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4.3. Essential Information

Ms. Leahy presented on the issues paper. The paper was generally positively received. Key discussion points:

- Ms. Lowe: Important to explicitly explain the concept of 'minimum quantifiable price'. Questioned how this concept will interact with what is on bills. Very pleased to see expiry of contract information included in the essential information.
- Ms. Leahy: Confirmed that the concepts would be clearly set out and clarified, noting the difference between the minimum periodic cost (where calculable) and the minimum quantifiable price of the offer, where the latter is the total potential debt risk for the consumer as opposed to what they would need to pay each payment cycle.
- There was discussion about the Connectivity Literacy pack by Better Internet for Rural Regional & Remote Australia (BIRRR) and its guidance on assisting consumers understanding of telecommunications products. Ms. Leahy suggested that it would be considered in reference to Essential Information and as a general resource. Mr. Cosgrave also noted that the work was largely around not only the formation of the contract but understanding what connectivity is relevant to a consumer's need, which is probably not best addressed for a Code process of this sort.
- Mr. Downing: Expressed support for the general concept, noting that it would be useful to have clarity around the treatment of payments with month-to-month devices and what the exit costs/cost structure could be. It would be excellent if this was standardised as this would facilitate comparison and efficient search for consumers for various offers.
- Ms. Leahy clarified that the consistency of the information is how it will be presented, and that the intention would be consistently delivered through the requirement to ensure essential information is presented in every step.
- Ms. Gebert: Also expressed support for the concept of essential information. Noted that the proposal would make it easier for consumers to understand what the key things are they need to know at the beginning of the relationship, the cost, how to end the relationship and that it should be provided in a timely manner to consumers. Suggested that if information received at later contradicted information at point of sale, consumers should be able to cancel their contract.
- Ms. Leahy noted Ms. Gebert's comments on cancellation and advised that the DC is reviewing the CIS as part of the work undertaken for the essential information.



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- Mr. Cosgrave: the DC should consider whether essential information is related only to billing was a move create a single class of essential information that relates to the whole cycle of a consumer's journey.
- Ms. Leahy noted the importance of having the distinction between the broader life cycle as opposed to the sale lifecycle.

4.4. Selling Policies

Mr. Erickson presented on the issues paper.

- Ms. Gebert: Really supportive of what she is hoping is in the detail provided in the issues paper but reiterated it was hard to provide feedback without seeing it in context. Asked for clarification on whether the remedies provided were a shopping list, optional, and/or suggestions.
- Mr. Erickson confirmed that there would be some specific remedies included. This was welcomed.
- Ms. Lowe: Pleased to see the acknowledgement of incentives and in particular commission selling. It is hard to comment any further without seeing what is proposed in context. Balance score card type incentives are hard to execute in practice, which will require a lot of thought. Suggested that, if sales incentives are kept, there should be some requirements relating to the suitability of products for the customer. Concerned about the requirement of reasonable proof of vulnerability - understands why it is there but given the sort of behavior that incentives can drive, does not think it is appropriate that the onus is on the customer to remedy in those circumstances.
- Mr. Erickson: Having to provide remedies post-sale costs the business, so should be an appropriate incentive for organisations to avoid inappropriate selling. Also noted that there are a lot of obligations under the ACL which staff would need to follow.
- Ms. Lowe: ACCC has been enforcing significant penalties under the ACL and that hasn't stopped some of the problems. How the remedies are phrased is important which is why suitability is an alternative road to get to the end point.
- Mr. Downing: Strongly endorsed Ms. Lowe's comments.
- Mr. Riviere: agreed with all the comments for the need to see the concepts in context. Commended all the work put into this document and believes it is heading in the right direction and that it picks up on several comments made in various reports in recent times.

4.5. Credit Assessment

Ms. Wilson noted that there is no formal paper on this issue. Rather, the DC was wanting to test its thoughts with the RC before doing substantive work around the concept of risk and the requirements for mitigation.

Ms. Leahy spoke to the group:

- The DC:
 - recognises that the current credit assessment process doesn't address the risk of financial harm associated with a multitude of services.
 - recognises that the market has changed, with a shift to upfront subscription model options, with the devices and goods on payment plans 'on the side'. Consumers do not understand the way these interrelate.



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- and notes that there is TIO evidence of financial hardship that has got nothing to do with the underlying service; rather, it is associated with the total device debt remaining needing to be paid off in full when the associated service is cancelled by a customer early.
- The DC has concluded that there are three forms of harm that consumers are experiencing:
 - i. financial over commitment;
 - ii. financial hardship; and
 - iii. debt and default listing.

Each of the particular types of harms requires a different type of mitigation.

- Financial Hardship is out of scope with the FH Standard coming and therefore has not been dealt with. However, that, plus Code obligations in relation to responsible selling, debt management and remedies, all interact.
- The DC is looking to create a *credit assessment* process that is clear and requires responsible selling – including a conversation about current obligations, linked to the number of services being sold (or where it is evident that the customer already has numerous services). This would not be formally recorded.
- Where there is potential for a new purchase (for a new or existing customer) to create a debt, default, or credit risk for the consumer of \$150 or more, the DC is considering a requirement that the credit assessment must include an external credit check. This is a substantially lower threshold than the current code obligation, which requires checks where the potential debt is over \$1000 only for new customers.

RC Discussion

- Ms. Lowe: Pleased to hear the framework outlined and agrees that it links fundamentally with the selling policies discussion and what is committed there influences what occurs in credit assessment. Suggested that expenses are equally critical as part of the conversation and should be included. The other harm that needs to be thought about is disconnection and loss of access to an essential service.
- Ms. Leahy: Acknowledged the points made by Ms. Lowe and noted that most would likely be addressed through the FH Standard.
- Mr. Downing: The default listing is the end of that process and that is probably the most visible harm in terms of long-term access to credit. Picking up issues of loss of access and disconnection and the financial stress related to the services. The real challenge is with credit assessment and ACCAN has seen real sizeable debts such as \$10,000 of devices, which is quite significant. It is critical to have credit assessments in place as the lack of regulation around this is the driver of unconscionable conduct and a significant driver of the financial hardship issues that they have observed. This is an opportunity combined with some of the changes being proposed around sales practices to drive a reduction in that harm. There need to be appropriate approaches in place for both new customers and existing customers.
- Ms. Leahy: noted Mr. Downy's comments and noted that the focus was to reduce harm.

Action Item 2.5

DC to provide an issues paper to RC on Credit Assessment.



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4.6. Scope and Application

Ms. Fury presented on the issues paper.

RC Discussion

- Mr. Downing: wants TCP Code definition to align with the ACL's definition of small business. Questioned what the substantive harm is for the company in having these multinational businesses who do not rely on the provisions in the first place and therefore do not pose a substantive or real risk – surely if they didn't need the protections, it would not cost business to include them? However, Mr. Downing suggested that the potential risk of small business being inadvertently excluded from the Code's protection could create more harm.
- Ms. Fury responded that there is a cost to businesses in having systems and processes in place for all covered by the Code. But undertook to provide further detail/explanation.
- Ms. Lowe: Wants the small business definition to be aligned with the ACL. One of the challenges with small businesses is that there is a proliferation of different definitions, and it is confusing. The number of employees provided in the issues paper is the smallest number of employees that is defined in a vast array of different definitions. There is a case for clarity and consistency but open to hearing more about the harm to business.
- Ms. Wilson noted that the definition that included number of employees for a small business was the TIO's and that there is a cost to business in including protections, even if they are never required, and this should be balanced with the consumer benefit provided.
- Ms. Wilson asked the RC to provide feedback on which of the proposed potential carveouts were problematic.
- Mr. Cosgrave noted that the current definition in the issues paper does not talk about a *small* business as the Direction does. He suggested it might be easier to rely on the *prima facie* definition of small business, which would immediately cut out multinational businesses.
- Mr. Cosgrave asked Mr. Riviere whether they were seeking to have regulatory consistency across the instruments. Mr. Riviere advised that regulatory consistency is an aim but acknowledged the challenges.

Action Item 2.6	DC to provide further information on the harms to business with the current definition for small business.
Action Item 2.7	RC to provide written feedback on why certain carveouts proposed for the small business definition is problematic.

4.7. Languages

Mr. Sexton spoke to the issues paper.

RC Discussion

- Ms. Lowe: Highlighted that there is a difference between actively assisting people and giving people information. It is pleasing to see there is a shift into a reasonable assistance framework, which is a positive development if that is maintained.
- Mr. Downing: Proposed approach is a positive step forward. It might be worthwhile considering what resources being made available to focus on simple English rather than looking to produce documentation in numerous different languages. The focus should



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be on major language groups and also documentation which is simple and easy to read.

- Mr. Sexton noted Mr. Downing's suggestion.

5. Other Business

No other business.

6. Next Meeting

- Ms. Wilson has suggested that the meeting be extended to 2.5 hours, which would mean the meeting will conclude at 1:00PM.
- The next meeting is scheduled for Wednesday the 1st of November 10:30AM -1:00PM.

Action Items

Status	No	Action Item	Comments
Items			
New or open as of 10 Oct			
Open	1.1	Mr. Downing - To reach out to First Nation's consumer representatives concerning their potential participation in the TCP Code process.	
Open	1.3	DC - To provide written briefing to RC regarding payment methods out of session, to include different options on the way forward.	
New	2.1	Mr. Downing - To send drafting corrections for the minutes of meeting 1.	
New	2.2	Ms. Thai - Resend out minutes from meeting 1 with comments and corrections from the RC.	
New	2.3	DC - to consider how best to accommodate Ms. Lowe's request for a 5 th RC meeting.	
New	2.4	Mr Riviere/ACMA - to consider request to update/publish a document outlining overarching obligations on CSPs to support education/compliance and report back.	
New	2.5	DC - Provide a paper to RC on Credit Assessment.	
New	2.6	DC - to provide further information on the harms to business with the current definition for small business.	
New	2.7	RC - to provide written feedback on why certain carveouts proposed for the small business definition is problematic.	
Closed at RC #2 10 Oct			
Closed	1.2	DC - To discuss the consumer/small business definitional issues, and proposed new definitions, with the ACMA in the first instance (out-of-session, before the next meeting).	

TCP Code Review Committee Meeting No. 3, Final Minutes

Date: 1 November 2023

Time: 10.30 AM – 1.00 PM

1. Welcome and Attendance

Present Organisation	Name, Position	Official Role
Independent Adviser	Michael Cosgrave	Independent Adviser
ACCAN	Gareth Downing, Deputy CEO	RC Representative
ACCC	Tara Morice, A/g General Manager, Mobiles, Transmission and Consumer	Substituting for RC Representative, Catriona Lowe, Deputy Chair
ACMA	Craig Riviere, Executive Manager, Telecommunications Safeguards Branch	RC Representative
	Kathleen Stevenson, Assistant Manager, Telecommunications Performance and Regulation.	RC Representative
Aussie Broadband	Eric Erikson, Regulatory Affairs Advisor	RC Representative (Also a DC member)
Department of Communications	Kathleen Silleri, Assistant Secretary, Consumer Safeguard Branch	RC Representative
	Andrew Symonds, Director, Codes and Standards Section	Supporting Officer
	Nicola Tuckerman, Assistant Director, Consumer Safeguards, Communications Services and Consumer Division	Supporting Officer
	Sam Grunhard, First Assistant Secretary of the Communications Services & Consumer Division	Observing meeting informally (see introductory remarks)
Optus	Lisa Brown, Senior Manager, Consumer Policy	RC Representative (Also a DC member)
	Melanie Rainey, Senior Manager, Public Policy.	DC Member
Telstra	Shona Fury, Senior Regulatory Adviser	DC member Substituting for Bill Gallagher, Regulatory

		and Legal Executive (RC Representative)
	Tarnya Wilkins, Senior Regulatory Specialist, Consumer and Regional Policy	DC Member
TIO	Cynthia Gebert, Telecommunications Industry Ombudsman	RC Representative
	Erin Dempsey, Policy and Regulatory Affairs Lead	Supporting Officer
TPG-Telecom	Alexander Osborne, Head of Regulatory	RC Representative
	Annie Leahy, Regulatory Specialist	DC Member (half of meeting)
Vocus	John Sexton, Manager Regulatory and Compliance – Telco	RC Representative (Also a DC member)
Comms Alliance	Peppi Wilson, Senior Manager Policy and Regulation	Chair
	John Stanton, CEO	-

Apologies

ACCC	Catriona Lowe, Deputy Chair	RC Representative
Telstra	Bill Gallagher, Regulatory and Legal Executive	RC Representative
Twilio	Natasha Slater, Senior Manager, APAC Public Policy	RC Representative (Also a DC member)

The Chair opened the meeting and welcomed participants, including welcoming Mr Sam Grunhard, the new First Assistant Secretary of the Communications Services & Consumer Division, DITRDCA, attending to observe the meeting and understand how the group was operating.

Mr Grunhard briefly introduced himself.

2. Minutes and Actions from last meeting

2.1. Minutes

The Minutes from RC2 were agreed pending a few minor corrections that were tabled at the meeting.

Action 3.1: Ms Wilson to update and circulate the final RC#2 Minutes.

2.2. Actions

Action items from previous meetings were discussed and updated or closed as follows (and as reflected in the table overleaf).

Action 2.3: Ms Wilson advised that the DC will provide, to all members of the RC, a draft package comprising:

- i) a skeleton draft Code to illustrate the new proposed structure, with examples of key clauses in context,
- ii) a full pack of Position Papers (which are Issue Papers, updated to reflect RC discussions, with draft clauses provided in them and/or within an accompanying draft skeleton Code)

The aim is to have this ready by mid-November to allow it to be discussed further at the final RC meeting. It was noted that this timeframe was tight and it may be that the information is provided in two stages. None of the information should be totally unfamiliar, having been presented at RC meetings in some form.

Action 2.4: Mr Riviere reported that the ACMA had discussed this issue and agreed that the information would be useful and it would be something that the ACMA will consider further after the TCP Code has been dealt with.

Action 2.6 and Action 2.7: No further written information has yet been provided by the DC to the RC on problems with using the ACCC definition of consumer. However, no member of the RC has provided further information on their concerns about specific proposed carve outs either.

- There was (further) discussion, with the following points noted:
 - DC members: applying the ACCC definition of consumer (which includes small business) is problematic as it would unintentionally capture very large organisations. The fact that these large organisations do not need TCP Code (or FH Standard) protections (and the provisions will not be called upon), does not mean that their inclusion in the Code is cost-neutral; there is a substantial cost to CSPs in them being included, as all staff and systems managing enterprise customers will need to be set up and trained to ensure Code (or FH Standard) compliance. This represents a cost in the \$millions.
 - All RC members agreed that the intent should be to only include small business. However, Mr Downing noted concern that carve outs could unintentionally exclude some genuinely small businesses that need protection.
 - Mr Riviere suggested that examples are needed assist illustrate the issues (from the DC and ACCAN/other RC members). These should be provided as part of the 'package' to assist the Authority in their consideration of this issue.

New actions:

Action 3.2: DC to provide a draft package to the RC by mid-November, for feedback by or at the final RC meeting.

Action 3.3: DC and RC members to provide examples with information provided for actions 2.6 and 2.7, to assist illustrate the issues.

Status	No	Action Item	Comments
Items			
Open	1.1	Mr. Downing - To reach out to First Nation's consumer representatives concerning their potential participation in the TCP Code process.	No update from previous (see comments from RC#2)
Open	1.3	DC - To provide written briefing to RC regarding payment methods out of session, to include different options on the way forward.	Noted that this action is still outstanding
Closed	2.1	Mr. Downing - To send drafting corrections for the minutes of meeting 1.	complete
Closed	2.2	Ms. Thai - Resend out minutes from meeting 1 with comments and corrections from the RC.	Complete
Closed	2.3	DC - to consider how best to accommodate Ms. Lowe's request for a 5 th RC meeting.	Closed at meeting. See <u>note</u> .
Closed	2.4	Mr Riviere/ACMA - to consider request to update/publish a document outlining overarching obligations on CSPs to support education/compliance and report back.	Closed at meeting. See <u>note</u> .
Closed	2.5	DC - Provide a paper to RC on Credit Assessment.	Provided with agenda papers.
Open	2.6	DC - to provide further information on the harms to business with the current definition for small business.	Outstanding. Updated to also include examples, per new action item 3.2. See <u>note</u> .
New	2.7	RC - to provide written feedback on why certain carveouts proposed for the small business definition is problematic.	Outstanding. Updated to also include examples, per new action item 3.2. See <u>note</u> .

3. Key Issues for Discussion

Ms. Wilson invited individual members of the DC to present on each of the key issues, noting that, as previously, the individual members presenting were talking on behalf of the DC not on behalf of their individual organisation.

3.1. Accessibility

Mr Sexton spoke to the issues paper that was circulated.

The paper was well received, with the following comments made (all with the usual caveats about needing to see the final drafting):

- Ms Gebert – commended the focus on inclusive design.
- Mr Downing – voiced support for proposals as suggested and the focus on continuous improvement.
- Ms Morice – also voiced support for the principles espoused.
- Ms Silleri – agreed with others in supporting proposals. Noted that an element of accessibility that is often missed (and may or may not be included in the definition of inclusive design being discussed here) is awareness of the accessibility features built into the products/devices. This may not be in scope/possible to address in the Code but was worth noting.

Mr Sexton and DC members acknowledged this point and advised that consideration would be given to whether or how this could be appropriately accommodated.

Ms Wilson noted that this might be something that could be usefully included in a new accessibility guideline – something that the DC has briefly discussed (to be considered after the Code work is complete).

Action 3.4: DC to consider how awareness of product accessibility features could be best addressed (within or outside of the Code).

3.2. Code structure and measures of success

Ms Leahy spoke to the issues paper that was circulated.

Mr Downing –

- supportive of the proposals, particularly on the proposal for public reporting. Ideally, report information would all available all in one place.
- Noted that the Complaints in Context (CiC) is useful but the information doesn't reach consumers.
- Noted difficulty in ensuring data is comparable.
- Re attestation: sees value in strengthening CommCom's role with a view to better assessing whether compliance is measured against the letter of the code, or the intent of the Code (which may be different).
- Frequency of reporting issues are important to consider – reporting has to provide an incentive for good behaviour by providers.

Ms Leahy noted that these issues were important and are being considered. The new proposed structure and proposals are designed to address many of these issues.

Ms Gerbert –

- strong support for explicit outcomes/expectations proposal.
- Strong support for public reporting.

- Questioned whether it was envisaged that reporting obligations only apply to the top 10, like CiC? And where consumers would find that information.

Ms Leahy advised that the participation issue is an active question. The RC is considering how to reasonably balance the impact on different size providers vs wide inclusion.

Mr Sexton noted that it is also important to understand the type of service offered and type of product offered, as apples-for-apples comparisons are not possible without this consideration.

Ms Morice –

- very supportive of framework.
- Re performance metrics, ACCC supports comparison on issues other than price but noted that it is very difficult to find an accurate comparison of service between providers on anything other than price – this is very challenging to do.
- ACCC can provide information from their experience with other sectors
- advised that the ACCC was not sufficiently aware of CommCom's role in attestation prior to this review – and asked if it was possible to get more information.

Ms Wilson

- Thanked and accepted Ms Morice for her offer to provide information from the ACCC's experience on reporting in other sectors.
- Noted that there has been (and will continue to be) discussion of CommCom's role, including in providing some useful data. As an independent body, one thought bubble (not yet workshopped) is that it might be that they can do an 'NPS-style' survey of some sort.
- Clarified that the ACCC had spoken to CommCom directly at the beginning of the process (Ms Morice confirmed that this was indeed the case, with her colleague having had a discussion with them). Ms Wilson suggested that talking to directly to CommCom again with further questions about attestation was likely more useful than talking through an intermediary, but welcomed any follow-up questions or a follow-up discussion with the ACCC.

Mr Riviere –

- Noted that although the ACMA clearly deals with CommCom in relation to attestations, it would seem that there could be an expanded role for them (staffing and resourcing permitting).

Action 3.5: ACCC to share their experience on reporting challenges/approaches in other sectors with the DC.

Action 3.6: ACCC to seek further information about the attestation process directly from CommCom. And to initiate follow-up questions /discussion with CA (Ms Wilson) as required.

3.3. Supporting the customer

Mr Sexton spoke to the issues paper that was circulated before the meeting.

Ms Morice –

- supportive of overarching proposals as tabled
- questioned whether, with the possible inclusion of a new chapter, is it proposed that the Code will be structured around the customer lifecycle?

Ms Wilson advised that yes, the new code structure would essentially be structured around the customer journey, with overarching obligations/information at the start.

Ms Gebert –

- very supportive of the proposal that there be a requirement in relation to escalation to a 'real person', noting that support is (again) conditional on seeing full drafting.
- noted that there needs to be consistency with Complaints Handling Standard (CHS) re complaints.

In response to questions from Ms Wilson and Mr Sexton about whether this constancy might be appropriately achieved through an update to the CHS, which is currently quite dated and very prescriptive, requiring CSPs to have a postal address and phone number, Ms Gebert emphasised that she is focussed on the outcome.

3.4. Network coverage

Ms Brown spoke to the issues paper that was circulated before the meeting.

Ms Brown noted that CSPs aren't responsible for networks and creating coverage maps, but the obligations of the TCP Code are on the CSPs, which complicates obligations is the Code somewhat.

Mr Downing –

- supportive of proposals, particularly in relation to rescinding contracts where the network coverage is not as expected when sold
- re coverage maps, this is positive, but would like to see it better communicated to consumers.

Ms Gebert –

- supports consistency in terminology. Interested to see it in context in the selling chapters, particularly in regional areas.
- noted that the TIO receives complaints when people move house and this negatively affects their coverage.
- noted the difficulty in unpicking bundles.

Ms Brown responded:

- code requirements in relation to bundling issues would likely be high-level - 'you must have a process in place' - to provide appropriate flexibility to the provider assist the customer.
- in relation to the moving house example, the approach has to be more about managing customer expectations. Ms Gebert acknowledged this point.

Ms Morice –

- re rescinding contracts, isn't this happening anyway? (but useful to include to ensure it is consistent across all providers, including resellers.)

- in relation to network coverage issues, this is complicated – the ACCC has been considering this issue and is aware of confusion about the different coverage availability (eg wholesale network vs full access to network; 4G vs 5G).
- Offered to have a further conversation on network coverage – which the DC accepted.

Mr Cosgrave –

- are current obligations in relation to this staying in the Code?

Ms Leahy advised that the intention is to retain them, but with simple, clearer language.

Action 3.7: ACCC to share with/discuss with the DC its experience/findings in relation to network coverage.

3.5. Consumer vulnerability (overarching)

Ms Fury spoke to the issues paper that was circulated before the meeting.

Ms Gebert –

- very supportive of the general concepts and explaining what ‘vulnerability’ means.
- As before, need to see drafting in context to understand whether it will be useful.

Ms Brown raised that there were a number of difficulties in notifying customers in the world of spam and scam: There’s obligations to notify customers of numerous issues, including obligations to include links in those notifications, which is contrary to the messages that customers are getting re scams (which is not to click on links).

The RC acknowledged this issue.

Ms Morice –

- acknowledged that this is very difficult to manage.
- undertook to seek internal (ACCC) advice on this issue and to inform the group accordingly.

Mr Downing –

- Suggested that the SMS registry may assist in the scam issues.
- Voiced general support for the proposals in the paper. Noted that ACCAN see people being sold inappropriate products constantly, e.g. elderly consumers being sold products that are expensive and do not meet their needs.

Mr Grunhard –

- suggested that the SMS sender ID registry should assist.
- noted that there will be work required to educate everyone on the changes and ‘what is safe’.

Mr Osbourne (on the meeting chat) -

- cautioned that expectations should be tempered about the ability of the SMS register to address this issue, noting that the first iteration of the register will give no extra protections than are provided by the ‘spreadsheet’ model currently in existence – it will have little practical effect. The initial activity will be a limited list of alpha tags and the expected origination network. Later stages, due end 2024, will look at a more comprehensive approach.

- o noted that TPG Telecom would like to see early delivery of the end-state solution rather building an interim solution with little practical effect.

Action 3.8: ACCC to share advice with the RC on the ACCC's experience on managing notifications with spam and scam concerns.

3.6. Credit/debt management (including restriction, suspension for disconnections)

Ms Wilkins spoke to the issues paper that was circulated before the meeting.

Mr Downing –

- o Disconnection should be a last resort. ACCAN receives many representations from customers who have been disconnected – many in DFV circumstances – in circumstances in which disconnection was avoidable, particularly relating to direct debit failures.
- o Re prepaid, appreciate that a debt is not occurring, but want to see connection maintained.
- o Noted that consumers have been disconnected because of poor processes, including on prepaid.

Ms Gebert –

- o questioned whether the RC had seen the payments issues paper that was referred to, noting that it was difficult to comment without having seen the detail. (It was confirmed that it was outstanding – issues had been discussed at RC#1 but the paper not yet circulated).
- o Noted disappointment on the DC not being keen to include TIO details on the notifications – i.e. if you need to escalate this issue, here's the TIO's number. (Mr Downing supported this position.)

DC members noted the point, advising that the DC is wrestling with balancing what is included in a notification that must be short and to the point, especially when in short notice form (e.g. SMS) and noting that there were numerous points where the TIO's details were included.

Ms Morice –

- o would like to be able to confer with Ms Lowe on these issues. Would that be possible given she does not return from leave until mid-November?

Ms Wilson advised that feedback would be welcome and encouraged, but noted that it may not be able to be properly reflected in papers for the 'package' to the ACMA for December at that late point. However, assuming the decision was made to progress to a Code, there would be opportunities for further discussions.

All members of the RC were encouraged to provide any further comments on the issues papers presented to date ASAP.

Action 3.9: ACCC to provide feedback ASAP once Ms Lowe returns from leave on disconnections.

4. Other Business - none

5. Next meeting – as scheduled – 28 November, 1030am.

Actions

Status	No	Action Item	Comments
Items			
Open	1.1	Mr. Downing - To reach out to First Nation's consumer representatives concerning their potential participation in the TCP Code process.	No update from previous (see comments from RC#2)
Open	1.3	DC - To provide written briefing to RC regarding payment methods out of session, to include different options on the way forward.	
Open	2.6	DC - to provide further information on the harms to business with the current definition for small business.	Outstanding. Updated to also include examples, per new action item 3.2. See <u>note</u> .
New	2.7	RC - to provide written feedback on why certain carveouts proposed for the small business definition is problematic.	Outstanding. Updated to also include examples, per new action item 3.2. See <u>note</u> .
New	3.1	Ms Wilson - to update and circulate the final RC#2 Minutes.	
New	3.2	DC - to provide a draft package to the RC by mid-November, for feedback by or at the final RC meeting.	
New	3.3	DC and RC members - to provide examples with information provided for actions 2.6 and 2.7, to assist illustrate the issues.	
New	3.4	DC - to consider how awareness of product accessibility features could be best addressed (within or outside of the Code).	
New	3.5	ACCC - to share their experience on reporting challenges/approaches in other sectors with the DC.	
New	3.6	ACCC - to seek further information about the attestation process directly from CommCom. And to initiate follow-up questions /discussion with CA (Ms Wilson) as required.	
New	3.7	ACCC - to share with/discuss with the DC its experience/findings in relation to network coverage.	
New	3.8	ACCC - to share advice with the RC on the ACCC's experience on managing notifications with spam and scam concerns.	
New	3.9	ACCC - to provide feedback ASAP once Ms Lowe returns from leave on disconnections.	

TCP Code Review Committee Meeting No. 4, Final Minutes

Date: 28 November 2023

Time: 10.30 AM – 11.37 AM

1. Welcome and Attendance

Present Organisation	Name, Position	Official Role
Independent Adviser	Michael Cosgrave	Independent Adviser
ACCAN	Gareth Downing, Deputy CEO	RC Representative
ACCC	Catriona Lowe, Deputy Chair	RC Representative
	Brenda Elfernik, Assistant Director Mobiles Transmission & Consumer	Supporting Officer
ACMA	Craig Riviere, Executive Manager, Telecommunications Safeguards Branch	RC Representative
	Kathleen Stevenson, Assistant Manager, Telecommunications Performance and Regulation.	RC Representative
Aussie Broadband	Eric Erikson, Regulatory Affairs Advisor	RC Representative (Also a DC member)
	Isabelle Mihic, Regulatory affairs analyst	
Department of Communications	Kathleen Silleri, Assistant Secretary, Consumer Safeguard Branch	RC Representative
	Andrew Symonds, Director, Codes and Standards Section	Supporting Officer
	Nicola Tuckerman, Assistant Director, Consumer Safeguards, Communications Services and Consumer Division	Supporting Officer
Optus	Lisa Brown, Senior Manager, Consumer Policy	RC Representative (Also a DC member)
	Melanie Rainey, Senior Manager, Public Policy.	DC Member
Telstra	Shona Fury, Senior Regulatory Adviser	DC member Substituting for Bill Gallagher, Regulatory and Legal Executive (RC Representative)

	Tarnya Wilkins, Senior Regulatory Specialist, Consumer and Regional Policy	DC Member
TIO	Cynthia Gebert, Telecommunications Industry Ombudsman	RC Representative
	Erin Dempsey, Policy and Regulatory Affairs Lead	Supporting Officer
TPG-Telecom	Alexander Osborne, Head of Regulatory	RC Representative
	Annie Leahy, Regulatory Specialist	DC Member
Twilio	Natasha Slater, Senior Manager, APAC Public Policy	RC Representative (Also a DC member)
	Darryn Lim, Senior Director, APAC Public Policy	DC Member
Vocus	John Sexton, Manager Regulatory and Compliance – Telco	RC Representative (Also a DC member)
Comms Alliance	Peppi Wilson, Senior Manager Policy and Regulation	Chair
	John Stanton, CEO	-
	Jasmine Thai, Manager, Program Management	Secretariat support

Apologies

Telstra	Bill Gallagher, Regulatory and Legal Executive	RC Representative
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The Chair opened the meeting and welcomed participants.

2. Minutes and Actions from last meeting

2.1. Minutes

The Minutes from RC3 were accepted by the group.

Action 4.1: Mr. Downing to resend written feedback on action item 2.7 to Ms. Wilson.

2.2. Actions

Action items from previous meetings were discussed and updated or closed as per the table below.

Status	No	Action Item	Comments
Items			
Open	1.1	Mr. Downing - To reach out to First Nation's consumer representatives concerning their potential participation in the TCP Code process.	No update from previous (see comments from RC#2)
Closed	1.3	DC - To provide written briefing to RC regarding payment methods out of session, to include different options on the way forward.	Complete - provided in the final draft package sent to the RC (Payment methods position paper)
Closed	2.1	Mr. Downing - To send drafting corrections for the minutes of meeting 1.	Complete
Closed	2.2	Ms. Thai - Resend out minutes from meeting 1 with comments and corrections from the RC.	Complete
Closed	2.3	DC - to consider how best to accommodate Ms. Lowe's request for a 5 th RC meeting.	Complete – draft package sent to RC fulfilled this request.
Closed	2.4	Mr Riviere/ACMA - to consider request to update/publish a document outlining overarching obligations on CSPs to support education/compliance and report back.	Closed at meeting. (To be considered next year.)
Closed	2.5	DC - Provide a paper to RC on Credit Assessment.	Complete
Closed	2.6	DC - to provide further information on the harms to business with the current definition for small business.	Complete - provided in the final draft package sent to the RC
Open	2.7	RC - to provide written feedback on which of the proposed carveouts proposed for the small business definition is problematic, and why.	Outstanding. Mr Downing advised he would send/resend an email (no email received on either occasion)
Closed	3.1	Ms Wilson - to update and circulate the final RC#2 Minutes.	Complete
Closed	3.2	DC - to provide a draft package to the RC by mid-November, for feedback by or at the final RC meeting.	Complete. Draft package circulated 17 November for feedback by 30 November (2 days after the final RC for the year).
Closed	3.3	DC and RC members - to provide examples with information provided for actions 2.6 and 2.7, to assist illustrate the issues.	Complete

Closed	3.4	DC - to consider how awareness of product accessibility features could be best addressed (within or outside of the Code).	Complete - provided in the final draft package sent to the RC (Accessibility paper)
Open	3.5	ACCC - to share their experience on reporting challenges/approaches in other sectors with the DC.	Outstanding
Unclear	3.6	ACCC - to seek further information about the attestation process directly from CommCom. And to initiate follow-up questions /discussion with CA (Ms Wilson) as required.	CA followed up to ensure ACCC had still had contact details. Unclear if ACCC followed up with CommCom.
Open	3.7	ACCC - to share with/discuss with the DC its experience/findings in relation to network coverage.	Outstanding
Open	3.8	ACCC - to share advice with the RC on the ACCC's experience on managing notifications with spam and scam concerns.	Outstanding
Open	3.9	ACCC - to provide feedback ASAP once Ms Lowe returns from leave on disconnections.	Ms. Lowe stated that she will be providing feedback in the comments on the final draft package. (Outstanding)

3. Draft Package

3.1. Introductory Remarks/Comments on the package (Chair)

Ms. Wilson provided a comprehensive presentation on the process leading up to the final draft package, and outlined the final steps before submission of the final package to ACMA on the 15th of December.

A summary of the presentation is set out below:

- **Work completed pre-July 2023 –**
 - CA redesigned the TCP Code review and revision process, established an industry working group, released a public discussion paper, reviewed the entire Code structure, and appointed Michale Cosgrave as an independent Adviser.
- **Stage1: Information gathering –**
 - A public discussion paper was released, and CA received 9 submissions.
 - One-on-one discussions were conducted with individual stakeholders.
 - Relevant materials were reviewed and summarised into a key issues table.
- **July 2023 Scope and timelines for task changed:**
 - Minister Rowland made a direction to ACMA to make a Financial Hardship Standard. ACMA provided 6 areas of concern to be addressed in the Code review.
 - ACMA asked for "definitive and agreed views from CA and its members on changes it will make to the TCP Code," and "draft revised proposed

code provisions to give confidence to the regulator of the effectiveness of CA's proposed approach."

- **Stage 2: Iterative Drafting –**
 - Modified approach to meet ACMA's new timeframe - shortened engagement.
 - DC analysed input from stage 1 and engaged with multiple stakeholders, which was captured and addressed in a series of issues papers. 14 papers were developed and provided to the RC and to the broader membership of CA.
 - These issues papers were then developed into position papers that incorporate the feedback from RC and other stakeholders and set out DC's proposed approach with sample code clauses.
- **Definitive and agreed views: refreshed Code –**
 - A new consumer outcomes-focused structure, which includes outcomes and expectations outlined in each chapter and measurements of success.
 - Primary reason for the total restructure of the Code is to aid compliance and provide clear consumer protections.
 - Ms. Wilson explained that there will be minimal drafting included in the outline Code even for retained clauses because it is not possible to include meaningful drafting of a restructured code within the restricted timeframe, and it this was not what was requested. However, placeholders would be included to help the ACMA understand the proposals in context.
 - The December 2023 pack will include a cover letter, draft refreshed TCP Code, a paper on scope and application and 12 agreed industry position papers. Records and privacy had been discussed and a paper provided to the RC for consideration, but it would not be included in the package as priority needed to be given to the 'ACMA key issues'.
- **Finalise Stage 2, on to Stage 3 –**
 - If ACMA accepts the package provided DC will continue with stage 2 iterative drafting. This would include addressing any feedback from ACMA, as well as consultation with other stakeholders as proposed in the initial new process package.
 - A formal Code consultation will then be conducted.
 - The Code would be provided to ACMA for registration by June 2024.

3.2. Overall comments on draft 'package' (RC)

The RC stressed that CA should be very clear that the agreed position papers reflected the DC's position, not an agreed RC position. This was acknowledged – Ms Wilson confirmed that the first part of the papers reflected the views of the RC and other stakeholders, as expressed in the various consultation stages to date; the second part of each paper presented the DC's proposals for addressing the issues raised, in what it considered to be a considered and balanced manner considering the feedback from all stakeholders.

- Mr. Downing noted that the agreed position papers do not reflect the views of the broader sector as there has not been an opportunity to consult with them so far. Ms. Wilson confirmed that there had been limited opportunity to consult with the broader sector in the timeframe set, and that consultation would continue in the next stages of drafting (informally and formally). However, she noted that there had been updates provided to other CA members during the process to date and the draft package had been sent out to CA members not in the DC.
- Mr. Downing noted that the issues papers included generic attributions to 'consumer groups', which might imply that the cited position was ACCAN's, as it is the only consumer group in the process involved in the process. Mr. Downing asked for papers to clear cite the consumer organisation that had made the comment rather than 'consumer group' each time, but confirmed that he would be comfortable with comments being attributed to ACCAN if it had cited the other organisation's response in its submission.
- It was agreed that CA would update papers as requested. Ms. Wilson noted that many of the comments were from groups that ACCAN had cited in its submission, but other consumer groups views were noted in the information-gathering stage, from direct interaction during the DFV Guideline development, or through review of public statements, speeches or reports.

Action 4.2: DC to amend in the position papers to remove attributions to 'consumer group' and replace with 'ACCAN' or the name of the contributing party, as relevant.

The ACCC and ACCAN raised concerns that:

- positions presented in the presented Position Papers might change in light of feedback, and questioned whether the RC would get visibility of changes.
- there was risk that a clear statement of intent might not translate to clear clause drafting.
- Ms. Lowe specifically raised the concern of the extensive use of the word 'may,' which allows discretion on how the Code is drafted and implemented into practice.

Ms. Wilson and Ms. Wilkins responded:

- papers may change in light of feedback as clearly any consultation process must consider – and where appropriate make changes to address – feedback received. However:
 - in line with the commitment to transparency of process, a spreadsheet would be kept (and made available) to record all comments received on the Position Papers and to clearly record how and why the DC addressed each in the revised Agreed Position Papers.
 - the **industry position** is unlikely to change substantially as the Position Papers transition into Agreed Position Papers because the DC included representation from a range of industry members, encompassing different size organisations and organisations with different business models.
 - the DC attempted to clearly articulate the intent because actual drafting may change somewhat to reflect feedback from all parties that clarity /detail /corrections/ guidance/ examples, etc., etc., were required; code structure changes and cross-references, etc, etc. Capturing the intent

should provide comfort and allow time for the wording to be appropriately worked through to ensure it is clear, correct and unambiguous (all necessary for a successful Code and for compliance). If there is concern that drafting does not reflect what DC is committed to there will be additional opportunities to address issues through the iterative drafting process.

- Ms. Wilson stated that it was not the DC's intention to have 'mays' in the drafting; DC had changed most 'mays' to 'wills' and must have missed some. She confirmed that the RC would review the draft provisions to address this point and ensure that the language is clear and unambiguous.
- Mr. Cosgrave noted that:
 - the timeframe was not set by CA
 - all stakeholders were under the same time pressures to provide comments and feedback by the 30th of November.

Action 4.3: DC to review use of the word 'may' in the draft clauses to ensure unambiguous language.

The RC commented on wanting more detail in provisions and had a discussion below:

- A number of RC members stated that there was not enough detail in the sample drafting, and they would like to see more.
- Mr. Downing made the following comments:
 - while the process has been overall more positive, there have been a significant amount of dialogue on direct debit and the scope of small business protections but very little comparative discussions on sales practices, which is one of their key concerns. He noted that sales practice issues were not simply an information asymmetry problem – the issue of predatory sales and sales incentive policies should be addressed.
 - the Credit Assessment proposals are positive, but again more detail is required around the scope to ensure intent is reflected in drafting.
- Ms. Lowe commented:
 - recognises that a lot of work had gone into the preparation of the package and that it contains some meaningful improvements such as requiring an order summary and a requirement for CSPs to monitor complaints around selling practices. She highlighted concern that although necessary, these proposals are insufficient to prevent and stop inappropriate selling practices, noting that the ACCC has conducted a huge amount of enforcement actions in this area, with large penalties, which has not deterred inappropriate selling practices.
- Ms. Wilson invited the ACCC to provide constructive feedback on what additional changes could be made to address the Ms. Lowe's concerns. This was the purpose of the consultation and iterative drafting feedback.
- Ms. Lowe noted that the main concern related to incentivised sales.

- The DC noted that there were proposals in the papers in relation to incentivised sales but undertook to consider how to strengthen those proposals further.

Action 4.4: DC to consider how to strengthen proposals in the draft paper around incentivised sales practices.

Action 4.5: RC members to provide specific proposals about how to address issues raised (in their written feedback)

Some discussion followed on the Code Structure and Measurement of Success Position Paper.

- Ms. Lowe:
 - recognises that there are some elements that she sees as significant steps forward, but concerned that enforcement would still be problematic and therefore questioned the value of any code improvements.
 - reporting is important but is not sufficient to ensure compliance. She encouraged the DC to look at other sectors' Code compliance processes such as in banking, finance, superannuation, or insurance, which impose consequences when the Code is breached beyond reporting mechanism. There are a whole range of additional consequences imposed by the regulator such as putting in plans to avoid future breaches and potentially provide compensation.
- Ms. Wilson:
 - as explained in the measurement of success paper there are three different types of reporting mechanisms that have been suggested: public reporting, risk management processes, and attestation. Together with the restructured and simplified Code, these should make it clear when a CSP is not compliant with the Code's requirements and aid enforcement (including by the regulator)
 - noted the challenge of identifying metrics that are comparable and measurable (as acknowledged by the ACCC at the previous meeting).
- Mr. Downing:
 - it would be beneficial to have as much of the reporting public as possible to ensure consumers can be informed. The current reporting framework is ineffective as very few consumers are reading reports or press releases (e.g. on complaints) and ultimately it does not weigh into their decision making. It is weakening the competition in the market as there is no good information, it is not comparable, and it also subjective.
- Ms. Wilson:
 - noted again the challenge in identifying metrics that are comparable and meaningful, but that the DC had been exploring what basic metrics could be reported to provide useful information for consumers.
 - noted that risk management processes and attestation information would likely not translate well to useful information for the consumer – its focus is to allow the ACMA to understand compliance and for CA and industry to also understand and be able to address issues.

Closing comments

- Ms. Wilson confirmed that the DC was requesting **written** feedback on all the papers by 30 November. She noted that points verbally discussed at earlier RC meetings in relation to the initial issues papers had been reflected in updated stakeholder comment sections in the Position Papers, but until the DC received more detailed feedback on the issues, it was difficult to work through and address 'it doesn't' go far enough' type of comments. Further, draft clauses had been added to many papers since the initial discussions.
- Mr. Cosgrave:
 - reminded the meeting that the DC had provided a draft outline TCP Code in the recent pack, and that this included draft high-level outcomes and expectations. He urged the RC to ensure that they reviewed and commented on this draft.
 - suggested that the RC should reflect upon DC's decision to restructure the Code to address both on ease-of-use concerns and to aid compliance. He suggested that if the Code gets governance, clear high-level expectations, and training right, with strong and enforceable minimum rules, then there is a reasonable framework for an effective Code mechanism. He again urged the RC to consider this as they reviewed the package.

4. Other Business – None.

5. Next meeting – TBA pending ACMA Authority decision.

Actions

Status	No	Action Item	Comments
Items			
Open	1.1	Mr. Downing - To reach out to First Nation's consumer representatives concerning their potential participation in the TCP Code process.	No update from previous (see comments from RC#2)
Open	2.7	RC - to provide written feedback on why certain carveouts proposed for the small business definition is problematic.	Outstanding. (see also 4.2)
Open	3.5	ACCC - to share their experience on reporting challenges/approaches in other sectors with the DC.	Outstanding
Open?	3.6	ACCC - to seek further information about the attestation process directly from CommCom. And to initiate follow-up questions /discussion with CA (Ms Wilson) as required.	CA part complete. Unclear if ACCC has been in contact (again) with CommCom
Open	3.7	ACCC - to share with/discuss with the DC its experience/findings in relation to network coverage.	Outstanding
Open	3.8	ACCC - to share advice with the RC on the ACCC's experience on managing notifications with spam and scam concerns.	Outstanding

Open	3.9	ACCC - to provide feedback ASAP once Ms Lowe returns from leave on disconnections.	Ms. Lowe stated that she will be providing feedback in the comments on the final draft package.
Repeat	4.1	Mr. Downing - to resend written feedback on action item 2.7 to Ms. Wilson.	
New	4.2	DC - to amend in the position paper where 'consumer group' is mentioned to clearly identified if this is a ACCAN comment.	
New	4.3	DC to review use of the word 'may' in the draft clauses to ensure unambiguous language.	
New	4.4	DC to consider how to strengthen proposals in the draft paper around incentivised sales practices	
New	4.5	RC members to provide specific proposals about how to address issues raised (in their written feedback)	