

Final Investigation Report

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| File No | ACMA2025/295 |
| Carriage service provider | Best Telecom Group Pty Ltd |
| ACN | 634 555 034 |
| Relevant legislation | <i>Telecommunications (Consumer Protection and Service Standards) Act 1999</i> <i>Telecommunications Act 1997</i> |
| Date | 2 December 2025 |

Findings

The Australian Communications and Media Authority (**ACMA**) finds that Best Telecom Group Pty Ltd (ACN 634 555 034) (**Best Telecom**) has contravened:

- (a) section 132 of the *Telecommunications (Consumer Protection and Service Standards) Act 1999* (the **TCPSS Act**)
- (b) the service provider rule set out in clause 1 of Schedule 2 to the *Telecommunications Act 1997* (the **Act**); and
- (c) subsection 101(1) of the Act,

by failing to comply with a decision given to Best Telecom by the Telecommunications Industry Ombudsman (**TIO**) on 11 February 2025 (**TIO Decision**), identified as 2024-07-03281 (a copy of the TIO Decision is at **Attachment A**).

Background

1. This report presents the findings of an investigation conducted by the ACMA, under paragraph 510(1)(aa) of the Act, into a matter referred to it by the TIO.
2. On 31 March 2025, the TIO referred Best Telecom to the ACMA in relation to its failure to comply with the TIO Scheme as required by section 132 of the TCPSS Act.
3. Specifically, the TIO alleges that Best Telecom failed to comply with the TIO Decision that directed Best Telecom to refund \$1088.38 in cancellation fees and reimburse \$15.00 in overdraft fees, being a total refund of \$1,103.38 to the relevant consumer's (**the customer**) nominated bank account within 10 business days of their acceptance of the Decision.
4. On 9 April 2025, the ACMA wrote to Best Telecom asking it to confirm that it had implemented the TIO Decision and if not, to explain why. On 11 April 2025, the ACMA resent this email directly to Best Telecom's director. On the same day, the ACMA received a voice mail from the director, advising that Best Telecom did not hold the customer's bank account details. On 12 April 2025, the customer advised the ACMA that the day prior he had received an email from Best Telecom with a form to complete with his bank account details. The customer advised that he had completed the form and returned it to Best Telecom on the same day.
5. On 6 May 2025, the customer advised the ACMA that they had not received a refund payment from Best Telecom. On 8 May 2025, the ACMA emailed Best Telecom, requesting advice on when the refund would be paid to the customer. On the same day, the director of Best Telecom advised the ACMA that he would

respond to the ACMA 'as soon as possible.' On 13 May 2025, the consumer emailed the ACMA and confirmed that they had not received the refund payment. On 20 May 2025, the ACMA wrote to Best Telecom advising it to comply with the TIO Decision by 4 June 2025 and to respond to the ACMA in writing to confirm it had done so.

6. Having received no response from Best Telecom, on 11 June 2025 the ACMA provided its preliminary breach findings to Best Telecom and invited it to respond. The ACMA's preliminary findings were that Best Telecom had not complied with the TIO Decision by 25 March 2025, which was the date for compliance specified by the TIO, in contravention of clauses 2.4 and 6.7 of the TIO's Terms of Reference. Therefore, Best Telecom contravened section 132 of the TCPSS Act, and as a consequence had also contravened the service provider rule set out at clause 1 of Schedule 2 to the Act, and subsection 101(1) of the Act.
7. On 20 June 2025, the director of Best Telecom contacted ACMA staff via email and phone. In these communications, the director advised staff that Best Telecom was awaiting instructions from the customer as its system had removed the customer's payment information due to a 'fatal direct entry error'. The director further advised that Best Telecom had attempted to refund the customer between 3 and 4 times, however the customer's account details were incorrect and therefore the payment could not be made. Best Telecom did not provide any evidence of the attempts to refund the customer or any attempts to contact the customer to obtain the correct account details.
8. Having received no further response to its preliminary findings, on 26 June 2025 the ACMA emailed Best Telecom to request evidence that it had complied with the TIO decision by refunding the required amount to the customer. Best Telecom did not respond. On 3 July 2025, the customer advised the ACMA that they had again provided their bank account details to Best Telecom via email. On 11 July 2025, the customer advised the ACMA that they had received an email request from Best Telecom requesting their bank account details for payment of the refund, which the customer advised they provided to Best Telecom on the same day. On 5 August 2025, the consumer advised the ACMA that the refund payment has not been received.
9. In reaching its view, the ACMA has considered the information provided by Best Telecom via phone on 11 April, by email on 8 May and by phone and email on 20 June 2025.

The TIO scheme, TIO Constitution and Terms of Reference

10. Subsections 128(1) and (2) of the TCPSS Act provide that each carrier and eligible carriage service provider (**CSP**) must enter into a scheme to be known as the TIO scheme. Subsection 128(3) of the TCPSS Act provides for only one TIO scheme, to be operated by the TIO Limited (ABN 46 057 634 787).
11. Section 132 of the TCPSS Act provides that a carrier or a carriage service provider which is a member of the TIO scheme must comply with the TIO scheme.
12. The TIO's Constitution¹ establishes TIO Limited as a not-for-profit public company overseen by a Board of Directors and funded by its members to operate the TIO scheme in accordance with the TIO's Constitution.

¹ <https://www.tio.com.au/sites/default/files/2022-11/CONSTITUTION%20as%20amended%2015%20November%202022.pdf>

13. Under clause 17(b) of the TIO's Constitution, in becoming a member of the TIO scheme, each TIO member agrees to be bound by and observe the TIO's Terms of Reference² (which set out how the TIO scheme operates).
14. Relevantly, clauses 2.40 and 6.8 of the TIO's Terms of Reference provide that if a consumer, such as the customer, accepts a decision made by the TIO, such as the TIO Decision, the member must comply with and implement the decision.
15. Accordingly, failure of a TIO member to comply with a TIO Decision constitutes a failure to comply with the TIO's Constitution and the TIO's Terms of Reference, and consequently a failure to comply with the TIO scheme and section 132 of the TCPSS Act.
16. The Act states that service providers (including CSPs) must comply with the service provider rules contained in the Act (see subsection 101(1)). The relevant service provider rule in this case requires a service provider to comply with the TCPSS Act (see subsection 98(1) and subclause 1(1) of Schedule 2 to the Act).
17. Failure to comply with section 132 of the TCPSS Act is therefore a breach of a service provider rule, and a contravention of subsection 101(1) of the Act.
18. The law in this regard has been confirmed by the Federal Court of Australia in 2 cases in which the ACMA obtained court orders for the payment of civil penalties by CSPs for their failure to comply with TIO decisions: see *ACMA v Bytecard Pty Ltd and Morris* [2013] FCA 38 and *ACMA v Limni Enterprise Pty Ltd formerly known as Red Telecom Pty Ltd* [2022] FCA 795.

Findings and reasons

19. Best Telecom is an eligible CSP in Australia, as it provides internet, mobile and standard telephone services to residential and small business consumers (subparagraphs 127(a)(i) and (iii) of the TCPSS Act)
20. Best Telecom is a member of the TIO scheme as evident from the list of members at www.tio.com.au/members³. The TIO has advised the ACMA that Best Telecom has been a member of the TIO scheme since 28 August 2019.
21. As a TIO member, Best Telecom is required under section 132 of the TCPSS Act to comply with the TIO scheme. Accordingly, Best Telecom must also comply with the TIO's Constitution and Terms of Reference.
22. The TIO Decision directed Best Telecom to refund \$1,103.38 to the customer's nominated bank account within 10 business days of the customer accepting the Decision. The customer accepted the TIO Decision on 11 February 2025. On 11 March 2025, the TIO advised Best Telecom that the decision was binding and that it was required to comply with the TIO Decision under clause 3.14 of the TIO's Terms of Reference by 25 March 2025 (**Attachment B**).⁴
23. Having examined the record of the TIO Decision, the ACMA is satisfied that the TIO decision was made in accordance with the TIO's Constitution and Terms of

² [Terms of Reference | The Telecommunications Industry Ombudsman](#)

³ Accessed on 4 June 2025

⁴ In its referral to the ACMA, the TIO did not provide an explanation as to the delay between the date the consumer accepted the TIO's decision and it became binding, and the date the TIO confirmed this to Best Telecom. However, the ACMA notes the date by which the TIO required Best Telecom to comply with the binding decision afforded Best Telecom the requisite 10 days to comply after the decision became binding.

Reference, and that Best Telecom was required to comply with the TIO Decision by refunding \$1,103.38 to the customer's nominated bank account by 25 March 2025.

24. The customer advised the ACMA on 6 and 13 May, and 25 June 2025, that Best Telecom had not, at those dates, complied with the TIO Decision by refunding the specified amount.
25. The ACMA has considered Best Telecom's information on 20 June 2025 (set out at paragraph 7) that it has been unable to comply with the TIO Decision because it does not have the customer's correct account details and is waiting on the customer to confirm these details to Best Telecom.
26. It is the ACMA's view that it is the responsibility of Best Telecom to take all necessary steps to enable it to comply with the TIO Decision. In any case, the ACMA is satisfied the evidence demonstrates that the customer has provided their account details to Best Telecom on two subsequent occasions, on 3 and 11 July 2025 (set out at paragraph 8), further to the initial instance of providing those details to Best Telecom, on 12 April 2025 (set out at paragraph 4).
27. For the above reasons and because Best Telecom did not refund \$1,103.38 to the customer's nominated bank account by 25 March 2025 as required by the TIO Decision, the ACMA is of the view that Best Telecom failed to comply with the TIO Decision.
28. Consequently, the ACMA finds that Best Telecom has contravened section 132 of the TCPSS Act, and therefore has also contravened both the service provider rule set out at clause 1 of Schedule 2 to the Act and subsection 101(1) of the Act.

Attachments

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| Attachment A | The TIO Decision identified as 2024-07-03281 |
| Attachment B | TIO email to Best Telecom dated 11 March 2025 that attached the customer's signed acceptance of the TIO Decision. |