

27 March 2024

By email: [haveyoursay@acma.gov.au](mailto:haveyoursay@acma.gov.au)

General Manager, Content and Consumer Division  
Australian Communications and Media Authority  
PO Box 78  
Belconnen ACT 2616

Dear General Manager,

## ACMA Compliance Priorities 2024 – 2025

Thank you for the opportunity to provide input on the Australian Communications and Media Authority (ACMA) compliance priorities for the 2024-25 financial year. Consumer Action Law Centre (Consumer Action) and WEstjustice consider ACMA's compliance and enforcement work as integral to protecting users of telecommunications services. We are supportive of the ACMA's current compliance and enforcement priorities and would support further action, specifically in relation to: responses to domestic and family violence (DFV) and financial abuse, selling practices and enforcement of non-compliance to protect people from scams. These issues arise regularly on our frontline services, as we address in detail below, and we see the substantial harm caused to consumers that should be prevented by the telecommunications industry. Our feedback has been informed by the following overarching themes:

1. The systemic issues impacting telecommunications customers who call and receive assistance through the National Debt Helpline (NDH) and through our legal services.
2. The widespread recognition of telecommunications as an essential service. The major disruption to peoples' everyday lives resulting from recent network outages, including those caused by the impact of extreme weather events, in addition to the increasing harm from scams, has confirmed the detrimental impact on society when people cannot access or trust their telecommunications services.
3. The current affordability crisis and poor telecommunications practices which are disproportionately affecting the lives of people experiencing vulnerability, who often end up paying a poverty premium<sup>1</sup> to access their essential telecommunications service and who often prioritise their phone expenses over other basic needs to stay connected. In late-2023, when financial counsellors asked callers to the NDH how much they were paying, the average amount being spent on phone (sometimes internet) bills was approximately \$100 per month, despite many callers being in significant financial stress.<sup>2</sup>
4. The requirements introduced by the Financial Hardship Industry Standard and the adequacy of the Telecommunications Consumer Protection Code (TCP Code) in assisting and protecting consumers from harmful practices.

<sup>1</sup> Anglicare Australia. September 2023. The Poverty Premium: The High Cost of Poverty in Australia'. Available at: <https://www.anglicare.asn.au/publications/the-poverty-premium/>

<sup>2</sup> Consumer Action Law Centre. March 2024. 'At the front line of the cost-of-living crisis: Insights from a Telephone Financial Counselling Helpline'. Available at: <https://consumeraction.org.au/report-at-the-front-line-of-the-cost-of-living-crisis/>

Accordingly, the issues discussed in our detailed submission on the ACMA Compliance Priorities 2023-24 remain highly relevant, including the enforcement of financial hardship safeguards for vulnerable consumers and ensuring customers are provided with a range of payment options that meet their needs. Those issues should be considered in addition to the further comments we have provided below.

We have reviewed the submission from the Australian Communications and Consumer Action Network (ACCAN) and endorse ACCAN's recommendation. These include protecting consumers from being sold products that do not fit their needs, supporting consumers to navigate and adapt to the 3G network shutdown, clarifying ACCAN's concerns regarding the interpretation of 'appropriate community safeguards' under s117(1)(d)(i) of the Telecommunications Act 1997 (Cth), and enforcing compliance with the Financial Hardship Industry Standard and TCP Code, noting that we are currently campaigning for stronger mandatory obligations in laws and an updated enforceable TCP code that will work to effectively protect all consumers.

To support our comments in this submission, we attach the regulator complaint submitted to ACMA and the ACCC on 9 February 2024 at **Appendix A**.

### **Responses to domestic and family violence and financial abuse**

Over the past 12 months, Consumer Action and WEstjustice's frontline services, and financial counsellors servicing the NDH, have continued to receive regular calls from people who have not been provided with appropriate levels of assistance from their telecommunications providers when impacted by situations of DFV or financial abuse. These include instances where customers have communicated their situation to their telecommunications provider on multiple occasions, or informed providers of safety concerns when protected by police intervention orders. We have received complaints from customers who have stated that their telecommunications provider has insisted they obtain consent from, have a three-way call with, or attend a store with the violent perpetrator in order to make any changes to their account.

Poor practices by telecommunications providers toward customers experiencing or at risk of DFV include:

- *Inadequate assistance leading to disconnection, restriction or suspension of a consumer's service (i.e. cutting them off)*
- *A lack of understanding of the impacts of DFV and financial hardship including barriers to future access to a service*
- *Mis-selling and inadequate sales practices and checks leading to economic abuse*
- *Inadequate hardship and debt collection practices for victim survivors, including offering unaffordable payment plans*
- *Systemic barriers that prevent victim survivors from separating their telecommunications accounts, despite "clean slate" and "de-link" industry guidelines*
- *Lack of appropriate staff training to deal with DFV*
- *Inadequate internal dispute resolution (IDR) processes*
- *A lack of bill payment options and customers being pressured to enter into direct debit payments*
- *Poor communication between the telecommunications provider and the debt collector which compounded the financial distress*
- *Difficulties and delays experienced by financial counsellors and community lawyers when dealing with telecommunications providers while trying to assist victim survivors of DFV*
- *Lack of clear and consistent practices in relation to redress/compensation decisions*

Our comments are made in light of the new requirements introduced by the Financial Hardship Industry Standard and the proposed revisions to the TCP Code. Although the Financial Hardship Standard requires telecommunications providers to identify and provide timely assistance to those experiencing financial hardship, it does not require providers to have mandatory DFV policies in place to prevent customers from being exploited by perpetrators of DFV or technology-facilitated financial abuse.<sup>3</sup> Furthermore, the vague language adopted throughout the proposed revisions to the TCP Code currently appears to limit the extent of positive obligations required of telecommunications providers, and provides very little extra support to customers affected by DFV.<sup>4</sup>

We continue to call for directly enforceable laws which would require telecommunications providers to be more targeted in proactively assisting and identifying people experiencing or at risk of DFV. We also support strong laws that would prevent telecommunications providers from taking credit management action against people experiencing or at risk of DFV, and from selling their debts to debt collectors, especially when those debts have been incurred in their name by violent perpetrators. The areas of concern that could be addressed by direct regulation are further expanded on in ACCAN's position paper on DFV<sup>5</sup>.

### **Selling practices**

Our complaint to ACMA at **Appendix A** evidences the large number case studies of predatory or poor sales practices used by telecommunications providers. We continue to call on ACMA and other regulators to investigate and take enforcement action against telecommunications providers who trick or pressure consumers into purchasing products or services that they cannot afford. Some of the practices by telecommunications providers that our services have recently observed include:

- *Overcommitting vulnerable customers by selling them multiple unaffordable plans or products — in a number of instances between 5 to 7 devices*
- *Insufficient checks to prevent the contracting of products and services into the names of people experiencing vulnerability (including First Nation customers and victim survivors of DFV) when they received no benefit from those products and services*
- *Misleading representations and charging customers for additional products, such as smart watches, after telling customers those products were free*
- *Unconscionably forcing customers onto unsuitable direct debit arrangements in order to allow customers access to cheaper plans, when they are experiencing financial hardship*

We submit that the proposed changes to the TCP Code to address poor sales practices, including the proposed revisions of the credit assessment provisions, will do little to prevent the systemic culture of incentivised mis-selling in the telecommunications sector. The changes do not ensure telecommunications providers will make any meaningful inquiries or verify a customer's financial circumstances before they are sold products or services. Nor do the changes require providers to retain the necessary documentation or evidence required to verify that it complied with responsible selling practices. The proposed scaled down credit assessment provisions for existing customers will likely do little to prevent the sale of multiple or expensive products to customers.

The ACCC also raised significant concerns regarding the inadequacy of protections to prevent poor sales practices in their response to the current TCP proposal<sup>6</sup>.

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<sup>3</sup> CALC media release. 'Relief for telco customers in financial hardship welcomed – but much more needs to be done'. February 2024. Available at: <https://consumeraction.org.au/relief-for-telco-customers-in-financial-hardship-welcomed-but-much-more-needs-to-be-done/>

<sup>4</sup> CALC media release. 'Consumer fail: New Telco Code proposal delivers little for vulnerable consumers'. January 2024. Available at: <https://consumeraction.org.au/consumer-fail-new-telco-code-proposal-delivers-little-for-vulnerable-consumers/>

<sup>5</sup> ACCAN. October 2023. 'ACCAN Policy Position Domestic and Family Violence'. Available at: <https://accan.org.au/accans-work/policy-positions/2253-domestic-and-family-violence>

<sup>6</sup> ACCC. January 2024. 'Review of the Telecommunications Consumer Protections Code: ACCC response to 17 November 2023 Drafting Committee package'. Available at: [https://www.accc.gov.au/system/files/accc-response-tcp-code-drafting-committee-package\\_o.pdf](https://www.accc.gov.au/system/files/accc-response-tcp-code-drafting-committee-package_o.pdf)

## Enforcement of non-compliance to protect people from scams

Australians are losing life-changing amounts of money to scams every day. Although the vast majority of scam losses are facilitated through on-line banking platforms, the ability for scammers to take control of alphanumeric sender IDs to trick consumers has contributed to the way scammers have been able to perpetrate these crimes.<sup>7</sup>

Scams where alphanumeric sender IDs have been easily and systematically hijacked by scammers have been most recently [highlighted in the media](#) in relation to the high profile HSBC scam where customers have lost millions of dollars to scammers. Despite authorities and the bank being aware of the scam, no one can stop it.<sup>8</sup> The scams crisis is also severely impacting the most vulnerable in our society with the latest ACCC Scamwatch report showing the continued disproportionate impact on older Australians.<sup>9</sup>

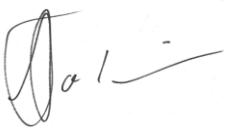
We note that the Federal Government is currently consulting on a proposal to introduce a SMS Sender ID Registry, and that ACMA has recently reported on its enforcement action against a number of providers who have breached existing scams rules.<sup>10</sup> However, the voluntary codes in place across the telecommunications sector has not prevented billions of scam calls and text messages from reaching customers<sup>11</sup>, resulting in significant non-compliance with current SMS scam rules<sup>12</sup>, and has highlighted the need for further strong enforcement measures by ACMA in this space.

'APPENDIX A' is located at the end of this document.

Please contact Senior Policy Officer **David Hofierka** at **Consumer Action Law Centre** on 03 9670 5088 or at [david.h@consumeraction.org.au](mailto:david.h@consumeraction.org.au) if you have any questions about this submission.

Yours Sincerely,

**CONSUMER ACTION LAW CENTRE**



**Stephanie Tonkin** | CEO

**CONSUMER ACTION LAW CENTRE**



**Joseph Nunweek** | Legal Director, Economic Justice Program

**WESTJUSTICE**

<sup>7</sup> 38% of all scam contacts have been by text message. ACCC. 2024. National Anti-Scam Centre's October to December 2023 quarterly update. p.9. Available at: [https://www.accc.gov.au/system/files/National-Anti-Scam-Centre-in-Action\\_quarterly-update-October-to-December-2023\\_o.pdf](https://www.accc.gov.au/system/files/National-Anti-Scam-Centre-in-Action_quarterly-update-October-to-December-2023_o.pdf)

<sup>8</sup> More than 420 reports about HSBC scams were made to ACCC's Scamwatch in 2023. See: <https://www.abc.net.au/news/2024-03-08/hsbc-customers-demand-spoof-scam-action/103549516>; <https://www.abc.net.au/listen/programs/am/hsbc-customers-in-impersonation-scam/103563480>

<sup>9</sup> Australians over 65 years of age accounted for 20.49% of scam losses. ACCC. 2024. National Anti-Scam Centre's October to December 2023 quarterly update. p.35. Available at: [https://www.accc.gov.au/system/files/National-Anti-Scam-Centre-in-Action\\_quarterly-update-October-to-December-2023\\_o.pdf](https://www.accc.gov.au/system/files/National-Anti-Scam-Centre-in-Action_quarterly-update-October-to-December-2023_o.pdf)

<sup>10</sup> Available at: <https://www.acma.gov.au/publications/2024-02/report/action-scams-spam-and-telemarketing-october-december-2023>

<sup>11</sup> See: <https://www.theage.com.au/national/bombarded-with-scam-calls-and-messages-there-s-a-way-to-stop-them-20231219-p5eshi.html>

<sup>12</sup> See: <https://www.itnews.com.au/news/government-moves-to-expand-sms-sender-id-registry-605237> and <https://www.itnews.com.au/news/sender-id-registry-could-be-voluntary-or-mandatory-596578>

## About Consumer Action

Consumer Action is an independent, not-for profit consumer organisation with deep expertise in consumer and consumer credit laws, policy and direct knowledge of people's experience of modern markets. We work for a just marketplace, where people have power and business plays fair. We make life easier for people experiencing vulnerability and disadvantage in Australia, through financial counselling, legal advice, legal representation, policy work and campaigns. Based in Melbourne, our direct services assist Victorians and our advocacy supports a just marketplace for all Australians.

## About WEstjustice

WEstjustice provides free legal services and financial counselling to people who live, work, or study in the cities of Wyndham, Maribyrnong and Hobsons Bay, in Melbourne's western suburbs. We have offices in Werribee and Footscray, as well as youth legal branch in Sunshine, and outreach across the west. Our services include: legal information, advice and casework, duty lawyer services, community legal education, community projects, and law reform and advocacy.