

**COMMUNICATIONS
ALLIANCE LTD**



INDUSTRY CODE

TELECOMMUNICATIONS CONSUMER
PROTECTIONS CODE

DR C628:2011

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DR C628:2011 Telecommunications Consumer Protections Code

Communications Alliance Ltd ACN 078 026 507 (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.

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INTRODUCTORY STATEMENT

This Communications Alliance Telecommunications Consumer Protections (TCP) Code is a code of conduct designed to ensure good service and fair outcomes for all Consumers of Telecommunications Products in Australia.

All Carriage Service Providers who supply Telecommunications Products to Customers in Australia are required to observe and comply with the Code.

The Code is registered by the Australian Communications and Media Authority (ACMA), which has appropriate powers of enforcement. Compliance with the Code is monitored by Communications Compliance (CC).

Our Key Commitments to Consumers

1. Consumers will enjoy open, honest and fair dealings with their Supplier, and have their privacy protected.
2. Consumers will receive clear, accurate and relevant information on products and services from their Supplier; before, during and, where appropriate, after the Point of Sale.
3. Consumers will have disputes resolved quickly and fairly by their Supplier.
4. Promotion of products and services by Suppliers will be clear, accurate and not misleading.
5. Disadvantaged and vulnerable consumers will be assisted and protected by appropriate Supplier policies and practices.
6. Consumers will receive an effective remedy from any Supplier who breaches the Code.
7. Suppliers will use monitoring and reporting tools to ensure successful implementation of the Code.

Summary of Chapters

The chapters in this Code are summarised as follows:

General Rules

This chapter sets out the general rules which will apply to each of chapters 4 to 9 of the Code.

Consumer Sales, Service and Contracts

This chapter sets out what Suppliers must do for Consumers in relation to retail sales and service, including regarding the provision of information, advertising, selling practices, contracting, dealing with Consumers with different needs and customer service.

Billing

This chapter sets out what Suppliers must do in relation to Billing and providing information about Bills and Charges to Customers arising out of the supply of Telecommunications Products.

Credit and Debt Management

This chapter sets out what Consumers are entitled to from Suppliers, and what Suppliers must do, in relation to the provision and management of credit in connection with the supply of Telecommunications Products, including the denial and restriction of access to Telecommunications Services for credit-related reasons and the application of a Supplier's Financial Hardship policy.

Changing Suppliers

This chapter sets out Consumer rights and Supplier obligations when Consumers seek to change their current Supplier of a Telecommunications Service to an alternative Supplier. It also sets out Suppliers' obligations to Customers when a transfer of a Customer's Telecommunications Service arises as a result of the sale of a Supplier's business or a corporate reorganisation of the Supplier.

Complaint Handling

This chapter sets out what Consumers are entitled to from Suppliers, and what Suppliers must do, in relation to the handling and Resolution of Complaints in connection with the supply of Telecommunications Products, including requirements for managing, monitoring, analysing, recording and reporting Complaints.

This chapter specifically sets out the obligations for Suppliers to advise Consumers, in certain circumstances, of their options for external dispute resolution. The TIO is one such option. The TIO is an independent alternative dispute resolution scheme available free of charges to small business and residential Consumers in Australia. However the Supplier must be given a reasonable opportunity to settle a complaint with a Consumer before the TIO will become involved.

Code Compliance and Monitoring

This chapter sets out the compliance and monitoring arrangements that apply to this Code and requires Suppliers to implement a Code Compliance Framework which will:

- encourage, monitor and enhance industry compliance with this Code;*
- improve the levels of customer service and consumer protection enjoyed by users of Telecommunications Products in Australia;*
- improve self-regulation by Suppliers;*
- enhance transparency regarding compliance with this Code; and*
- provide Consumer confidence in the self-regulatory regime of which this Code forms a part and in the telecommunications industry's compliance with the Code.*

Clause Organisation

The clauses in this Code are generally organised in two parts: a higher level outcome followed by some actions required of Suppliers to enable that outcome to be met.

Code Revision

This Code replaces Code C628:2007. This Code is the result of a revision project headed by a Steering Group chaired by Ms Fay Holthuyzen and comprised of industry and consumer representatives, along with six Working Committees similarly composed. The revision was facilitated by Communications Alliance.

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1 GENERAL

1.1 Introduction

- 1.1.1 Section 112 of the *Telecommunications Act 1997* (Cth) (Act) 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.
- 1.1.2 The development of the TCP Code in 2007, and its review in 2010/2011, has been facilitated by Communications Alliance through a Steering Committee comprising representatives from the telecommunications industry, consumer groups, the ACMA and ACCC, and an observer from the Department of Broadband, Communications and the Digital Economy.
- 1.1.3 This Code replaces TCP Code C628:2007 and the Guideline to TCP Code C628:2007, with effect from the date of registration by the ACMA.
- 1.1.4 The Code should be read in the context of other relevant codes and their guidelines.
- 1.1.5 The Code should be read in conjunction with related legislation, including:
- (a) the Act;
 - (b) the *Telecommunications (Consumer Protection and Service Standards) Act 1999* (Cth);
 - (c) the *Competition and Consumer Act 2010* (Cth);
 - (d) the *Disability Discrimination Act 1992* (Cth);
 - (e) the *Racial Discrimination Act 1975* (Cth);
 - (f) any other relevant equal opportunity legislation;
 - (g) the *Privacy Act 1988* (Cth);
 - (h) the *Spam Act 2003* (Cth) and
 - (i) the *Do Not Call Register Act 2006* (Cth),
- and their related regulations, standards, determinations and codes.
- 1.1.6 If there is a conflict between the requirements of the Code and any requirement imposed on a Supplier by statute or by a Regulator, the Supplier will not be in breach of the Code by complying with the statute or the requirements of the Regulator.

- 1.1.7 Compliance with this 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 Registration with ACMA

The Code is to be submitted to the Australian Communications and Media Authority (ACMA) for registration pursuant to section 117 of the Act.

1.3 Scope

- 1.3.1 The Code applies to the Carriage Service Providers section of the telecommunications industry under section 110 of the Act.
- 1.3.2 It deals with the following telecommunications activities as defined in section 109 of the Act:
- (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.
- 1.3.3 The Code applies only to residential and small business consumers and regulates matters relating to their relationship with their Carriage Service Providers.
- 1.3.4 This 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 Commencement date

Except as provided in this clause 1.4, this Code will commence on the day of registration with the ACMA.

For the purposes of Chapter 9, the Code Compliance Framework will not commence until that date which is 6 months after the date of registration of this Code with ACMA.

The obligations under clause 4.1.2 will not commence until that date which is 6 months after the date of registration of this Code with the ACMA.

The obligations under clause 5.3.2 (m) where relating to the provision of the total amounts of each of the two previous Billing Periods will not commence until that date which is 6 months after the date of registration of this Code with the ACMA.

The obligations under clause 6.6.1 (d) will not commence until that date which is 12 months after the date of registration of this Code with the ACMA.

1.5 Code review

This version of the Code is the result of a revision conducted in 2011, following registration of the TCP Code (C628:2007) by the ACMA in 2007. The Code will be reviewed every 5 years subsequently, or earlier in the event of significant developments that impact on the Code or a chapter within the Code. The provisions of Chapter 9 will be reviewed in 2 years following the date of commencement of the Code Compliance Framework referred to in clause 1.4 above.

1.6 Power of the Telecommunications Industry Ombudsman to handle complaints under the Code

Under section 114 of the Act and subject to the consent of the TIO, the Code confers on the TIO the functions and powers of:

- (a) receiving;
- (b) investigating;
- (c) facilitating the resolution of;
- (d) making determinations in relation to;
- (e) giving directions in relation to; and
- (f) reporting on;

Complaints made by the end users of a Listed Carriage Service about matters arising under or in relation to the Code, including compliance with the Code by those industry participants to whom the Code applies.

2 DEFINITIONS AND INTERPRETATION

2.1 Definitions

For the purposes of this Code:

ACCAN

means the Australian Communications Consumer Action Network.

ACCC

means the Australian Competition and Consumer Commission.

ACIF

means the body formerly known as the Australian Communications Industry Forum which developed codes for the telecommunications industry.

ACMA

means the Australian Communications and Media Authority.

Act

means the *Telecommunications Act 1997* (Cth).

Action Plan

means a plan submitted to the CC by a Supplier pursuant to clause 9.6.

Advertising

means advertising, marketing and promotional material (including electronic and online material) in relation to a Supplier's Telecommunications Products.

Advocate

means, in relation to a Consumer with a special need for assistance when dealing with a Supplier, the person nominated by that Consumer to provide the relevant assistance.

ASIC

means the Australian Securities and Investment Commission.

Australian Consumer Law

means Schedule 2 to the *Competition and Consumer Act 2010* (Cth).

Authorised Representative

means the person who has authority from a Consumer to deal with a Supplier on behalf of that Consumer as their authorised agent.

Bill

means an invoice from a Supplier which advises a Customer of the total of each Billed Charge.

Bill Media

means the method in which a Bill is communicated or delivered to the Customer, and its format.

Billed Charge

means a Charge that is due for payment by a Customer in respect of Telecommunications Products provided by a Supplier.

Billing

means any one, or a combination of, the following activities:

- (a) calculating and assembling Charges incurred by a Customer during a Billing Period;
- (b) applying any debits or credits outstanding or Discounts due against the Charges, and calculating the net amount payable by the Customer;
- (c) issuing and delivering Bills to the Billing Address;
- (d) handling Billing Enquiries; and
- (e) receiving and receipting payments made by the Customer.

Billing Accuracy

means the validity of Charges and the correctness of the calculation of the Charges.

Billing Address

means the Customer's nominated address which is displayed on the Bill.

Billing Complaint

means a Complaint made to a Supplier by a Customer about any aspect of the Customer's Bill or the Supplier's Billing.

Billing Enquiry

means a request to a Supplier by a Consumer for relevant information about a Bill, or Billing generally.

Billing Name

means the name of the Customer to whom the Bill is issued and delivered.

Billing Option

means a Billing related option offered by the Supplier that the Consumer may choose or nominate.

Billing Period

means a period of time in relation to which Billed Charges relate.

Carriage Service Provider

has the meaning given in the Act.

Carrier

has the meaning given in the Act.

CC

means Communications Compliance, the independent body which monitors and reports on Code compliance, the role and obligations of which are set out in Chapter 9 and Appendix 1 to this Code.

Charge

means the tariff or fee which a Supplier levies for the provision of a Telecommunications Product or a related transaction.

Code Compliance Framework

means the framework for industry compliance with the Code which is described in chapter 9 of this Code, and is further illustrated in Appendix 2 to this Code.

Competition and Consumer Act

means the *Competition and Consumer Act 2010* (Cth).

Complaint

means an expression of dissatisfaction made to a Supplier in relation to its Telecommunications Products or the complaints handling process itself, where a response or Resolution is explicitly or implicitly expected by the Consumer.

An initial call to a provider to request a service or information or to request support is not necessarily a complaint. However, if a Customer advises that they want this initial call treated as a Complaint, the Supplier will also treat this initial call as a Complaint. An initial call to report a fault or service difficulty is not a complaint.

If a Supplier is uncertain, a Supplier may ask a Customer if they wish to make a Complaint and may rely on the customer's response.

Compliance Achievement Plan

means a plan submitted to the CC by a Supplier pursuant to clause 9.5.

Compliance Attestation

means a statement by a Supplier, attested in the manner required by clause 9.4.1 and addressing the matters referred to in clause 9.4.1 (f).

Compliance Monitoring Request

means a request from the CC to a Supplier for information relating to that Supplier's compliance with this Code.

Compliance Plan

means documentation prepared by a Supplier in accordance with clause 9.3.1(c).

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, 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 \$20,000,

A reference to a Consumer includes a reference to the Consumer's Authorised Representative.

A reference to a Consumer includes a reference to a Customer.

Corporate Reorganisation

means a reorganisation of the corporate group of which the Supplier is a part with the result that a Customer will be provided with Telecommunications Services by another supplier after that reorganisation is complete.

Credit Assessment

means the process by which a Supplier determines the level of credit to be provided by it (if any) to a Consumer.

Credit Management

means the process by which a Supplier:

- (a) helps Customers to manage their expenditure on Telecommunications Services;
- (b) manages any credit risk to the Supplier; and
- (c) collects outstanding debts from Customers, and former Customers.

Credit Reporting Agency

means an entity that carries on a credit reporting business as defined in the Privacy Act.

Customer

means a Consumer who has entered into a Customer Contract with a Supplier.

A reference to a Customer includes a reference to the Customer's Authorised Representative.

Customer Contract

means an arrangement or agreement between a Supplier and a Consumer for the supply of a Telecommunications Product to that Consumer. For the avoidance of doubt, unless stated otherwise, the Standard Form Customer Contract is a Customer Contract.

Customer Information Compliance Statement

means a Supplier's annual statement which specifies where Customers can access the Supplier's information which is required to be made publically available under this Code.

Customer Service

means services, other than Telecommunications Services, provided by a Supplier to a Customer, in connection with the Customer's use of the Supplier's Telecommunications Products and the Customer's Customer Contract with the Supplier.

Direct Debit

means a periodic payment that is automatically deducted by a Supplier from a Customer's nominated financial institution account, implemented by the Supplier at the Customer's request.

Disconnection

means the termination by a Supplier of a Customer Contract for a Telecommunications Service.

Discount

means a reduction of any Charge which is levied by a Supplier and which is or may be payable by a Customer.

Electronic Bill

means a Bill that is delivered or displayed using an electronic medium.

Emergency Service Number

has the meaning given by section 3.24 of the *Telecommunications Numbering Plan 1997*.

External Qualified Assessor

An external qualified assessor means an assessor who:

- (a) is external to, and independent of, the Supplier;
- (b) is not with the Supplier's Immediate Circle;
- (c) in that Supplier's opinion, has suitable qualifications to assess that the Supplier's Compliance Plan has been prepared in accordance with principles and guidance outlined in the *Australian Standard on Compliance Programs AS 3806 - 2006*;
- (d) is a member of a professional organisation such as a professional auditing body or the Australian Compliance Institute; and
- (e) has been contracted by the Supplier to perform the role of external qualified assessor.

Financial Hardship

means a situation where:

- (a) a Customer is unable to discharge the financial obligations owed by the Customer under their Customer Contract or otherwise discharge the financial obligations owed by the Customer to a Supplier, due to unexpected illness, unemployment or other reasonable cause; and
- (b) the Customer believes that they are able to discharge those obligations if the relevant payment arrangements or other arrangements relating to the supply of Telecommunications Products by the Supplier to the Customer are changed.

Force Majeure

means an unforeseen or uncontrollable force or event, such as fire, flood, earthquake, storm or other disturbance, whether caused by the elements, an act of God, war, strike, lockout, riot, explosion, insurrection, governmental action or another event of the same kind, which is not reasonably within the control of a party.

Fraud

means dishonestly accessing or using any Telecommunications Products of a Supplier, or attempting to do so, with the intent of:

- (a) deceiving the Supplier or any other person;
- (b) not paying for the relevant Telecommunications Products; or
- (c) securing unlawful gain or advantage.

Gaining Supplier

means the Supplier to whom a Telecommunications Service is to be Transferred.

Guarantee

means a guarantee of a Customer's obligations under a Customer Contract.

Guarantor

means an individual or company who guarantees a Customer's obligations under a Customer Contract.

Hard Cap

means a maximum Limit applied to a Customer's use of Telecommunications Services, which Limit cannot be exceeded by the relevant Customer.

Immediate Circle

has the meaning given in the Act.

Included Value

means an Australian Dollar amount offered to a Customer as part of their mobile Post-Paid Service which is greater than the minimum monthly subscription amount and where part or all of this amount can be used on more than one eligible service of Standard National Mobile Calls, Standard National Mobile SMS and data in any combination chosen by a Customer and where the use of those eligible services is not unlimited.

Inform

means to advise another person of a particular fact, circumstance or claim:

- (a) by way of Written Notice; or
- (b) verbally, where same is confirmed and recorded, whether in Writing or otherwise, to provide a record of the verbal communication.

Initial Compliance Attestation

means the inaugural Compliance Attestation as required under clause 9.4.1 of this Code.

Itemised

means the detail(s) provided in relation to a particular Billed Charge.

Itemised Billing

means the provision of a Bill that includes details for each Billed Charge.

Large Text Advertising

means press advertisements in newspapers, magazines and press inserts which are the following sizes:

- (a) in broadsheet newspapers at least half the broadsheet in size or larger;
- (b) in tabloid newspapers at least half the tabloid page in size or larger;
- (c) in magazines at least half an A4 page in size or larger; and
- (d) in press inserts at least A5 in size or larger;

and advertisements on a Supplier's online websites other than advertising which consists of strips, banners or tiles.

Limit

means the maximum monetary amount assigned to a Customer's expenditure with a Supplier, for the total of Unbilled Charges accumulated during the Billing Period.

Listed Carriage Service

has the meaning given in the Act.

Material Change

means a significant change to any of the following:

- (i) a Supplier's operations arising from new or changed activities or services,
- (ii) major changes to systems and processes relevant to the Supplier's Compliance Plan; or
- (iii) major changes to compliance obligations under the Code which result in the need to review and update the Supplier's Compliance Plan.

Medium Supplier

means a Supplier with 100,000 services in operation or more but less than 1 million services in operation.

Metrics

means performance metrics relating to certain of the obligations of Suppliers under this Code, as required by CC from time to time.

New Entrant Supplier

means a Supplier that has been in business in Australia for no more than 12 months.

Offer

means a current, standard in-market plan containing pricing that is made by a Supplier for the provision of Telecommunications Products, which is available to any individual Consumer or Consumers as a class and includes, without limitation such offers made in Advertising, but excludes special promotions of limited duration or non-standard offers negotiated with or only made available to individual Consumers or class of Consumers.

Personal Information

has the meaning given to it in the Privacy Act.

Point of Sale

means the point at which the relevant Sales Representative obtains informed consent in accordance with clause 8.1.3.

Post-Paid Service

means a Telecommunications Product that can be consumed fully or in parts prior to being paid for by the Consumer.

Pre-Paid Service

means a Telecommunications Product that must be paid for by the Consumer before it is used.

Priority Assistance

has the meaning given in the *Priority Assistance for Life Threatening Medical Conditions Code (ACIF C609:2007)*.

Priority Assistance Customer

means a Customer receiving Priority Assistance.

Privacy Act

means the *Privacy Act 1988 (Cth)*.

Regulator

means any of the ACCC, ACMA, ASIC and any government body in any State or Territory responsible for the administration of all or part of the legislation referred to in clause 1.1.5.

Residential Customer

means a Customer that is an individual who acquires a Telecommunications Product for the primary purpose of personal or domestic use and not for resale under the standard terms and pricing for residential, non-business customers set out in the Supplier's Standard Form of Agreement.

Resolution

when used in connection with a Complaint, means the outcome of the bringing of that Complaint to a conclusion in accordance with the requirements of this Code.

Resolve

when used in connection with a Complaint, means the bringing of that Complaint to a conclusion in accordance with the requirements of this Code.

Restriction

means where access to one or more of a Supplier's available Telecommunications Products is limited or is to cease.

Restriction Point

means the point at which a Restriction is to occur.

Retail Outlet

means a retail premise that sells various goods and services in addition to Telecommunications Products.

Rules

means the Supplier-specific obligations under this Code, which are in chapters 3 to 8.

Sales Representative

means a person employed or contracted, directly or indirectly, by a Supplier to sell (including staff employed by a third party call centre to sell a Supplier's Telecommunications Products on behalf of that Supplier), offer to sell, or otherwise promote, Telecommunications Products to Consumers, other than a person who undertakes and completes a transaction for a Pre-paid Service for a Consumer at a cash register in a Retail Outlet.

Security Deposit

means a payment made by a Customer to a Supplier to mitigate a credit risk.

Security Tools

means tools to prevent unauthorised access to a Telecommunications Service.

Small Supplier

means a Supplier with less than 100,000 services in operation.

Spend Management Tools

means a tool available to a Customer to assist the Customer to take timely action to limit and/or manage their expenditure on a particular Telecommunications Product within the then current Billing Period.

Standard Form Customer Contract

means the Supplier's current Standard Form of Agreement for contracting with Consumers.

Standard Form of Agreement

has the meaning given in the Act.

Standard National Mobile Call

means a mobile voice telephone call from a Supplier's mobile service to another Supplier's mobile service (off-net) at peak time where the calling and receiving parties are in Australia.

Standard National Mobile SMS

means a mobile short message containing a maximum of 160 characters from a Supplier's mobile service to another Supplier's mobile service (off-net) at peak-time where the sending and receiving parties are in Australia.

Standard Telephone Service

has the meaning given in of the *Telecommunications (Consumer Protection and Service Standards) Act 1999* (Cth).

Statement of Independent Assessment

means a written statement by an External Qualified Assessor engaged by a Supplier confirming that the Supplier's Compliance Plan has been prepared in accordance with the principles and guidance outlined in the *Australian Standard on Compliance Programs AS 3806-2006* -, and that the External Qualified Assessor has determined that the implementation of the Compliance Plan by the Supplier will provide appropriate assurance on Code compliance.

Supplier

means a Carriage Service Provider.

Suspension

occurs when access to a Telecommunications Service, except to Emergency Service Numbers, is prevented by the Supplier.

Telecommunications Goods

means any goods supplied by a Supplier for use in connection with the supply of a Telecommunications Service, whether or not the goods are supplied in conjunction with, or separately from, a Telecommunications Service.

Telecommunications Product

means Telecommunications Goods and/or a Telecommunications Service.

Telecommunications Service

means:

- (a) a Listed Carriage Service or any service supplied by a Supplier in connection with that service; and
- (b) a content service (other than a subscription broadcasting service or a television subscription narrowcasting service) provided by the Supplier in connection with the supply of a Listed Carriage Service.

Third Party Charges

means Charges collected by a Supplier on behalf of another commercial entity, for any goods and services provided by that other commercial entity.

Timed Call

means a call for which a Charge is calculated according to the duration of the call.

TIO

means the Telecommunications Industry Ombudsman appointed under the Telecommunications Industry Ombudsman scheme referred to in the Act.

Transfer

means the transfer of all or part of a Consumer's Telecommunications Service from one Supplier to the Gaining Supplier.

Unbilled Charges

means Charges relating to a Telecommunications Product which have been incurred by a Customer and of which the Supplier is aware, but which the Supplier has not yet included in a Bill.

Unfair

has the meaning given to it in the Competition and Consumer Act.

Unsolicited Offer

has the same meaning as the term "unsolicited consumer agreement" under the Competition and Consumer Act.

Untimed Call

means a call where the applicable Charge is not calculated according to the duration of the call.

Urgent Complaint

means a Complaint where

- (a) the Complaint is made by a Customer who has been accepted as being in Financial Hardship under that Supplier's Financial Hardship Policy and where the subject matter of the Complaint can reasonably be presumed to directly contribute to or aggravate the Financial Hardship of that Customer; or
- (b) disconnection of a service has inadvertently occurred; or
- (c) it involves a Priority Assistance Customer.

Verification

means the process performed by a proposed Gaining Supplier prior to effecting a Transfer, pursuant to which such Gaining Supplier enlists a person or procedure (independent of the Sales Representative who procured the Transfer) to confirm with the Consumer the Consumer's request to Transfer.

Working Day

means a day that is not a Saturday, Sunday or gazetted public holiday in the location of the relevant Supplier.

Writing

means any form of written communication issued or sent by a Supplier or a Consumer.

Written Notice

means a document or other material that is provided in Writing and sent or delivered by the Supplier to the relevant Consumer by:

- (a) delivering it to the Consumer in person;
- (b) pre-paid post to the Consumer's address in the Supplier's records;
- (c) email, with the Consumer's prior consent;
- (d) including the information on or in a Bill, including electronically where the Consumer has expressly consented to receiving an electronic Bill; and
- (e) for Pre-Paid Telecommunications Services, otherwise making it available and informing the Consumer of the method(s) or venue(s) to obtain or access it.

2.2 Interpretation

In the Code, unless the contrary appears:

- (a) headings are for convenience only and do not affect interpretation;
- (b) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (c) words in the singular include the plural and vice versa;
- (d) words importing persons include a body whether corporate, politic or otherwise;
- (e) where a word or phrase is defined, its other grammatical forms have a corresponding meaning;
- (f) mentioning anything after include, includes or including does not limit what else might be included;
- (g) words and expressions which are not defined have the meanings given to them in the Act; and
- (h) a reference to a person includes a reference to the person's executors, administrators, successors, agents, assignees and novatees.

3 GENERAL RULES

This chapter sets out the general rules which will apply to each of chapters 4 to 9 of the Code.

3.1 Plain language

- 3.1.1 A Supplier must communicate with Consumers in simple, plain language.

3.2 Quality of information

- 3.2.1 A Supplier must ensure that information provided to Consumers is accurate, relevant, current and timely.

3.3 Access to information

- 3.3.1 A Supplier must communicate with a Consumer in a way that is appropriate to the Consumer's communications needs.
- 3.3.2 Suppliers must have regard to ACIF G586:2006 *Disability Matters: Access to Communications Technologies for People with Disabilities and Older Australians* Industry Guideline when providing information to Consumers with disabilities.
- 3.3.3 A Supplier must ensure that Consumers can view and download all relevant terms and conditions of its Telecommunications Products from a website and that the website is accessible.

3.4 Complying with the law

- 3.4.1 A Supplier must comply with all applicable laws in dealing with Consumers.

3.5 Dealing appropriately with Consumers

- 3.5.1 A Supplier must ensure that its Sales Representatives do not:
 - (a) harass or coerce a Consumer; or
 - (b) engage in unconscionable conduct.

3.6 Authorised Representatives and Advocates

- 3.6.1 A Supplier's process for dealing with an Authorised Representative or an Advocate must include procedures to protect the Consumer's privacy and confidentiality.
- 3.6.2 A Supplier must ensure that a Consumer can easily use an Advocate to communicate with the Supplier, if the Consumer requires.
- 3.6.3 A Supplier may presume that an Advocate is not authorised to establish or make changes to a Customer's account or

Telecommunications Services, unless the Advocate is also the Customer's Authorised Representative.

4 CONSUMER SALES, SERVICE AND CONTRACTS

Summary

This chapter sets out what Suppliers must do for Consumers in relation to retail sales and service, including regarding the provision of information, advertising, selling practices, contracting, dealing with Consumers with different needs and customer service.

General Rules

The general rules in chapter 3 apply in addition to the Rules in this chapter.

Rules

4.1 Telecommunications Offers

4.1.1 **Communication of Offer:** A Supplier must communicate its Offers in a way which is clear, accurate and not misleading, to allow Consumers to make informed choices.

4.1.1.1 A Supplier must take the following actions to enable this outcome:

- (a) **Everyday language:** use language to communicate its Offers to Consumers (whether orally or in writing, including in the Supplier's Advertising) which is appropriate for the intended audience; and
- (b) **Clarity:** provide information about its Offers in a comprehensible, clear and accurate manner, without exaggeration or omission of key information.
- (c) **Offer name:** cease using the term "cap" to describe any new Offer made after the date of registration of this Code, unless the Offer contains a Hard Cap.

4.1.2 **Summary of Offer:** A Supplier must provide a summary of each of its current Offers to allow Consumers to compare Offers provided by each Supplier which best suit their needs. A Supplier must take the following actions to enable this outcome:

- (a) **Content:** ensure the summary of the Offer contains:
 - (i) the following statement prominently on the first page: "This document contains critical information about the service so please take time to read."
 - (ii) the key pricing for that Offer, which includes (as appropriate) for that Telecommunications Service type, the monthly access, call, text and/or data

Charges for use in Australia in a readily identifiable manner;

- (iii) in relation to Offers for mobile Post-Paid Services, the following three standard pricing elements:
 - A. the cost (prior to any discounts being applied) of making a 2 minute Standard National Mobile Call (including flagfall where applicable) and an explanation of what constitutes a Standard National Mobile Call;
 - B. the cost (prior to any discounts being applied) of sending a Standard National Mobile SMS and an explanation of what constitutes a Standard National Mobile SMS; and
 - C. the cost (prior to any discounts being applied) of using one megabyte of data within Australia.
 - (iv) the inclusions, exclusions and any important conditions, limitations, restrictions or qualifications for that Offer, where applicable;
 - (v) the "single price" (if any) as defined in the Competition and Consumer Act;
 - (vi) the length of the contractual commitment for that Offer (if any);
 - (vii) whether any credits expire or roll-over for that Offer;
 - (viii) whether there are any exit or termination fees for that Offer;
 - (ix) whether, in relation to that Offer, there are any eligibility requirements regarding bundling;
 - (x) (where appropriate) a warning that higher charges may apply when using the Telecommunications Service abroad;
 - (xi) where Customers can access information about the Supplier's Spend Management Tools (if any) including where Customers can access information about their previous billing periods' mobile call, SMS and mobile data usage; and
 - (xii) Customer service contact details and how Customers can access the Supplier's internal dispute resolution scheme.
- (b) **Accessibility:** ensure that the summary of each of the Supplier's current Offers is easy to find and readily accessible on the Supplier's website, including a link to the summary of the Offer where the Supplier advertises the Offer on the Supplier's website where practicable, and that

the summary of each of the Supplier's current Offers for Post-Paid Services is available free of charge at the Supplier's stores.

- (c) **Provision prior to sale:** A Supplier must provide the summary of the Offer for Post-Paid Services free of charge to a Consumer prior to sale except:
 - (i) where the sale falls within the scope of an unsolicited consumer agreement under the Australian Consumer Law and as a result the Consumer is entitled to a cooling off period, the Consumer will be provided with a copy of the relevant summary of the Offer after the sale at the same time as the relevant unsolicited consumer agreement and cancellation notice.
 - (ii) where the sale is carried out over the telephone and is not treated as an unsolicited consumer agreement under the Australian Consumer Law and the Consumer agrees to opt out of their right to receive all information contained in the summary of the Offer prior to sale, a Supplier must:
 - A. give the Consumer a general overview of the summary of the Offer prior to or at the point of sale and provide the Consumer with a copy of the summary of the Offer after the sale; and
 - B. not engage in practices that would encourage Consumers to opt out of receiving the summary of the Offer prior to the sale.
- (d) **Comprehensible:** ensure that information contained in the summary of each Offer:
 - (i) is comprehensible and drafted in plain language;
 - (ii) allows the Consumer to obtain all the summary information for that Offer in one place;
 - (iii) uses clear headings to identify the content contained in each section;
 - (iv) does not include misleading marketing techniques; and
 - (v) any important conditions, limitations, restrictions or qualifications are given reasonable prominence in the summary of the Offer;
- (e) **Length:** ensure that each summary of the Offer is no longer than two A4 pages when all its mandatory contents are included.
- (f) **Awareness:** take steps to make Consumers aware that summaries of the Supplier's Offers are available.

- 4.1.3 **Other relevant information:** A Supplier must provide ready access to all other relevant information about Telecommunications Products currently offered by the Supplier beyond that which is covered in the summary of each Offer, to assist Consumers to assess those Telecommunications Products compared with other Telecommunications Products that the Consumer is investigating.
- 4.1.3.1 A Supplier must make available the following information on its website and, without charge upon request to enable this outcome:
- (a) **Product description:** a description of the key attributes of the Telecommunications Products offered by the Supplier;
 - (b) **Manufacturer:** the manufacturer's name for non-Supplier branded Telecommunications Goods supplied by a third party as part of the Supplier's Offers;
 - (c) **Technical information:** the main features for any Telecommunications Goods forming part of a Supplier's Offers or where this information can be obtained by the Consumer;
 - (d) **Billing and payments:** information on the Supplier's Bill formats, Billing Options, Billing Period and payments offered by the Supplier in relation to its Telecommunications Products;
 - (e) **Usage:** information to assist Consumers to estimate what capacity they may need on a Telecommunications Product to meet their usage requirements (eg. examples of how much data is consumed in doing typical things such as downloading a song or sending an email);
 - (f) **Warranties:** the details of warranties that apply to Telecommunications Goods, including references to Consumers' entitlements under the Competition and Consumer Act;
 - (g) **Post sales support:** details of any post sales support for the Telecommunications Products and any fees or charges for post sales support;
 - (h) **Mobile coverage:** the network coverage in Australia for the Telecommunications Services, which may include a map or diagram of the mobile coverage;
 - (i) **International Roaming:** information about whether a Consumer needs to take any action to activate international roaming on the Supplier's Telecommunications Product (such as applying for activation of this functionality with the Supplier) or

deactivate international roaming and the basic Charges to send SMS, make and receive standard calls and for data usage on the Supplier's Telecommunications Product from different countries (including 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) in a prominent and/or easily navigable and/or easily searchable position on the Supplier's website; and

- (j) **Resellers:** if acting as a reseller, the name of the principal Carrier whose network is used to provide the Telecommunications Services (but ensuring it is clear to the Consumer that the reseller is responsible for the service to the Consumer and is not affiliated or related to the principal Carrier unless it in fact is).

4.1.4 **Meeting Consumer needs:** Where a Consumer has identified 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.

4.1.4.1 A Supplier must take the following actions to enable this outcome:

- (a) **Training:** train staff regarding how to understand Consumer needs and advise Consumers on the Supplier's suitable Offers;
- (b) **Information:** provide standard information about Offers which can meet common needs expressed by Consumers;
- (c) **Usage:** provide information that can help Consumers predict their average level of telecommunications usage and what Offers may be suitable for that level of usage; and
- (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.

4.1.5 **Remedies for inaccurate information:** Where inaccurate information has been provided by a Supplier to a Customer regarding an Offer and the Customer has relied on it in making a purchasing decision to sign up to that Offer with the Supplier, the Supplier must offer a remedy that is appropriate in the circumstances for that Customer.

4.1.5.1 A Supplier must take the following actions to enable this outcome:

- (a) **Remedies:** train its staff to Resolve Complaints about inaccurate information by providing Customers with a remedy that is appropriate in the circumstances for that individual Customer, which may include a right for the Customer to terminate the Customer Contract; and
- (b) **Continuous improvement:** monitor Complaints about inaccurate information and take steps to address any material issues regarding inaccurate information.

4.2 Advertising

4.2.1 **Content of Advertising:** A Supplier must include any important conditions, limitations, qualifications or restrictions about an Offer in its Advertising of the Offer, to allow Consumers to make informed choices and to avoid Consumers being misled.

4.2.1.1 To enable this outcome,

- (a) a Supplier must not engage in the following practices:
 - (i) **Headline representations:** use headline representations as to a price or offer in circumstances where the overall impression of the price or offer is subsequently qualified by fine print terms and conditions that make it unlikely or impossible that a Consumer, by the ordinary use of their service, could reasonably achieve the benefits offered in the headline representation;
 - (ii) **Unlimited:** use the term 'unlimited' in an unqualified manner when referring to usage, unless the ordinary use of the 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;
 - (iii) **No exceptions, exclusions or catches:** use the terms 'no exceptions', 'no exclusions' or 'no catches' without sufficient disclosure when referring to a price or service offer, unless there are genuinely no exceptions to the offer;
 - (iv) **Free:** use the term 'free' to promote or advertise a handset or other hardware product or service unless the cost of the handset or other hardware product or

service is not recovered from the Consumer over the life of the contract by way of higher costs, including by way of higher call charges, higher network access fees, higher early termination fees or higher unlock fees, compared to the costs that would be payable by the Consumer over the life of the contract were the handset or other hardware product or service not provided free of charge;

- (v) **Price per minute:** use headline representations as to a price per minute for mobile phone calls, or calls made using phone cards, in circumstances where there is insufficient disclosure of extra charges including flag fall or call connection fees or for non-standard calls;
- (vi) **Bundled products or services:** use headline representations as to price for a particular product or service, unless that product or service is available for purchase at the advertised price without being part of a bundled product or service or the advertised price is clearly identified as the price for that product or service when purchased as part of a bundled product or service;
- (vii) **Phone plans:** use headline representations as to prices for phone plans unless any exclusions are prominently stated;
- (viii) **Prices for data allowances:** use unqualified headline representations as to ongoing prices for specified data allowances in circumstances where the price for that data is likely to increase within a reasonable use period;
- (ix) **Phone cards:** use headline representations as to the minutes of call time available on phone cards unless those minutes can be achieved by Consumers with ordinary use of the card;
- (x) **Broadband speeds:** advertise or promote headline theoretical, 'up to' or 'peak' broadband speeds where those speeds are unattainable by Consumers on the network;
- (xi) **Network coverage:** advertise or promote network coverage unless the network coverage is generally available to Consumers in the claimed coverage area;

- (xii) **Full minimum quantifiable price:** advertise or promote a periodic price to be paid for a product or service without also stating, in a prominent way (but not necessarily as prominent as the periodic price) the "single price" as defined in the Competition and Consumer Act; or
- (xiii) **Cap:** for any Offers in existence as at the date of registration of this Code (or any modification of such an Offer) advertise or promote any such Offer as a "cap plan" without also making it clear in context that Consumers may be required to pay more than the monthly quoted amount for the cap plan.

(b) When advertising an Included Value for a mobile Post-Paid Service in Large Text Advertising a Supplier must disclose the following three standard pricing elements in a prominent position in the body copy of that Large Text Advertisement:

- (i) the cost (prior to any discounts being applied) of making a 2 minute Standard National Mobile Call (including flagfall where applicable);
- (ii) the cost (prior to any discounts being applied) of sending a Standard National Mobile SMS; and
- (iii) the cost (prior to any discounts being applied) of using one megabyte of data within Australia.

4.2.2 **Advertising medium:** A Supplier must provide a level of detail in its Advertising which is appropriate to the manner in which the Advertising is displayed to Consumers.

4.2.2.1 A Supplier must take the following actions to enable this outcome:

- (a) **Clarity:** ensure the principal message and the main terms are captured in the body of the Advertising;
- (b) **Detail:** ensure that use of any disclaimers does not negate the principal message and main terms of the Advertising;
- (c) **Format:** take into account the typical amount of time that Consumers are able to view the particular Advertising in deciding how much information to include in the Advertising; and

- (d) **More information:** where advertising an Offer with Included Value, advise where Consumers can go to find out more information about the Included Value and the underlying rates used to calculate the Included Value for that Offer.
- 4.2.3 **Special Offers:** A Supplier must communicate any important limitations which apply to its special promotions of Telecommunication Products so Consumers are informed of the limitations.
 - 4.2.3.1 A Supplier must take the following actions to enable this outcome:
 - (a) **Principal terms:** disclose the key terms of the promotion and any key limitations, such as whether stocks are limited;
 - (b) **Timeframes:** if the promotion is to end within a short period of time, the Supplier must disclose the end date for the promotion; and
 - (c) **Eligibility:** if there are special eligibility requirements, such as provision of coupons, bundling with other products and services or restriction to a specific class of Consumers, the Supplier must disclose each requirement.
- 4.2.4 **Compliance Processes:** A Supplier must maintain and comply with adequate review processes to ensure that its Advertising complies with the law and this Code.
 - 4.2.4.1 A Supplier must take the following actions to enable this outcome:
 - (a) **Approval process:** maintain an approvals process in which its Advertising is reviewed by a person who has been trained in advertising laws to ensure it is not false or misleading and complies with this Code;
 - (b) **Training for marketing staff:** provide training to marketing staff who prepare such Advertising on how to do so in compliance with advertising laws and this Code; and
 - (c) **Ongoing monitoring:** monitor complaints about its Advertising and address identified material non-compliance with advertising laws or this Code and retain records for at least two years evidencing it has complied with these requirements.

4.3 Selling Practices

- 4.3.1 **Fair sales practices:** A Supplier must ensure its Sales Representatives promote and sell the Supplier's

Telecommunications Products in an open, honest and fair manner for the protection of Consumers.

4.3.1.1 A Supplier must take the following actions to enable this outcome:

- (a) **Training for Sales Representatives:** ensure its Sales Representatives are appropriately trained on how to promote and sell its Telecommunications Products to Consumers in a an open, honest and fair manner in compliance with this Code; and
- (b) **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.

4.3.2 **Accurate descriptions of products:** A Supplier must provide information about its current Telecommunications Products in a comprehensible and truthful manner, without exaggeration or omission of key information that the Supplier's staff know or should know is reasonably likely to be important to that Consumer in reaching a purchasing decision in the circumstances.

4.3.2.1 A Supplier must take the following actions to enable this outcome:

- (a) **Training:** ensure its Sales Representatives have a good working knowledge of the Supplier's current Telecommunications Products;
- (b) **Staff information:** provide access to information for its Sales Representatives to refer to in order to assist in answering Consumer queries about the Supplier's Telecommunications Products; and
- (c) **Consumer information:** enable its Sales Representatives to give Consumers information, or refer them to where they can access information, about the Supplier's Telecommunications Products.

4.3.3 **Appropriate behaviour:** A Supplier must interact with Consumers courteously and not engage in harassing behaviour.

4.3.3.1 A Supplier must take the following actions to enable this outcome:

- (a) **Culture:** promote a sales culture within the Supplier's organisation where rudeness with or harassment of Consumers, and/or non-compliance with this Code, is not acceptable and make Sales Representatives aware that they will face disciplinary action for such behaviours; and
- (b) **Disciplinary action:** ensure appropriate action is taken against its Sales Representatives who are

rude, harassing and/or engage in misleading conduct with Consumers,

4.3.4 **Consent:** A Supplier must obtain the Consumer's consent before the Consumer enters a Customer Contract with the Supplier.

4.3.4.1 A Supplier must take the following actions to enable this outcome:

- (a) **Consent:** confirm a Consumer wants to purchase the Supplier's Telecommunications Product before completing the sale;
- (b) **Authority:** use reasonable endeavours to confirm that the Consumer has legal capacity to enter the relevant post-paid Customer Contract with the Supplier before completing the Customer Contract with the Consumer;
- (c) **Records:** keep records of basic details regarding the Consumer's consent to the sale of the Supplier's Telecommunications Products; and
- (d) **Refusals:** if a Supplier refuses to supply a Consumer with a Telecommunications Product for any reason, inform the Consumer of the nature of those reasons.

4.3.5 **Unsolicited Offers:** A Supplier must ensure its Unsolicited Offers comply with the law.

4.3.5.1 A Supplier must take the following actions to enable this outcome:

- (a) **Compliance:** comply with the laws regarding telemarketing, electronic marketing and door to door sales, including, without limitation, the Competition and Consumer Act, the Do Not Call Register Act 2006 and the Spam Act 2003.

4.3.6 **Promoting Transfers and Unsolicited Offers:** A Supplier must ensure communications with Consumers about Transfers and Unsolicited Offers are carried out in a fair and accurate manner, to allow a Consumer to make an informed choice about whether to undertake a Transfer to that Supplier or take up a Supplier's Unsolicited Offer.

4.3.6.1 A Supplier must take the following actions to enable this outcome:

- (a) **Identity:** ensure its Sales Representatives identify the Supplier that they represent when promoting Transfers with Consumers;
- (b) **Presentation:** ensure its Sales Representatives promote the Supplier's Offers to Consumers in a fair

and accurate manner, when promoting Transfers or Unsolicited Offers;

- (c) **Place:** ensure its Sales Representatives only promote Transfers or Unsolicited Offers to Consumers in person in locations that are appropriate; and
- (d) **Other Suppliers:** ensure its Sales Representatives do not mislead Consumers about other Supplier's Telecommunications Products or the nature of the Supplier's affiliation or relationship with another Supplier when promoting Transfers or Unsolicited Offers.

4.3.7 **Recording calls:** A Supplier must inform a Consumer if the Supplier is recording a phone call between the Supplier and the Consumer, so the Consumer is aware the phone call is being recorded.

4.3.7.1 A Supplier must take the following actions to enable this outcome:

- (a) **Disclosure:** disclose to the Consumer that the phone call is being recorded by the Supplier.

4.4 Consumers with different needs

4.4.1 **Languages:** A Supplier must ensure that its Sales Representatives can communicate with Consumers effectively in English.

4.4.1.1 A Supplier must take the following actions to enable this outcome:

- (a) **English language abilities:** ensure its Sales Representatives who manage enquiries for Consumers are able to communicate effectively in the English language (recognising that Australia is a multicultural society and customer service staff may have non-Australian accents. This Code does not in any way promote or condone discrimination); and
- (b) **Other languages:** if a Supplier advertises its services in another language, then, for Consumers who do not speak English, the Supplier must provide reasonable information to assist such Consumers to find out where to obtain help in that advertised language in dealing with the Supplier, or appoint an Advocate to deal with the Supplier on their behalf.

4.4.2 **Consumers with disabilities:** A Supplier must make information available about any Telecommunications Products it offers which specifically suit the disclosed needs of a Consumer with a disability.

4.4.2.1 A Supplier must take the following actions to enable this outcome:

- (a) **Provision of information:** provide information about Telecommunications Products offered by the Supplier specifically for Consumers with different disabilities and how the Telecommunications Products operate, including, where the Supplier is supplying equipment, any information required to be supplied pursuant to the Information on *Accessibility Features for Telephone Equipment* Industry Code (C625:2009) and accompanying Guideline (G627:2011); and
- (b) **Access to information:** ensure this information is provided on the Supplier's website in a place which is easy to find and is accessible in accordance with the Web Content Accessibility Guidelines Version 1.0, or provide a contact number or email address to obtain the information.

4.4.3 **Disadvantaged or vulnerable consumers.** A Supplier must take reasonable steps to cater for the needs of disadvantaged or vulnerable Consumers.

4.4.3.1 A Supplier must take the following actions to enable this outcome:

- (a) **Training:** provide training to its Sales Representatives on how to interact with disadvantaged or vulnerable Consumers appropriately.

4.5 Customer Contracts

4.5.1 **Presentation:** A Supplier's Standard Form Customer Contract must be available on the Supplier's website where Consumers can easily locate, access and read them.

4.5.1.1 A Supplier must take the following actions to enable this outcome:

- (a) **Location:** make its Standard Form Customer Contracts available on its website in a place that is easy for Consumers to find them and provide a copy to the Customer upon request at no charge;
- (b) **Display:** display the Standard Form Customer Contracts on its website in a manner which is easy for Consumers to navigate and read; and
- (c) **Previous versions:** retain on its website the sections of its Standard Form Customer Contracts that contain the terms of Offers which are withdrawn by the Supplier after the date that this Code takes effect, for so long as Customers continue to

receive Telecommunications Products pursuant to those Offers, and for a reasonable period of time thereafter, to enable a response to Consumer queries about Offers which are no longer current.

4.5.2 **Content:** A Supplier's Standard Form Customer Contracts must be in plain English, clear, consistent and contain all the terms of the Supplier's Offers in a logical order that is easy to follow.

4.5.2.1 A Supplier must take the following actions to enable this outcome:

- (a) **Language:** use plain English and everyday language whenever possible in preparing its Standard Form Customer Contracts;
- (b) **Comprehensive:** ensure all contractual terms regarding an Offer are set out in the Supplier's Standard Form Customer Contract or are clearly incorporated by reference; and
- (c) **Customer Specific Information:** 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.

4.5.3 **Unfair Terms:** A Supplier will not include terms which would be Unfair in its Standard Form Customer Contracts.

4.5.3.1 To enable this outcome, without limiting the effect of the Unfair Contract Terms provisions contained in Part 2-3 of the Australian Consumer Law, or clause 4.5.3 of this Code, when assessing a term for unfairness a Supplier must consider whether the object or effect of the term is to:

- (a) **Suspension of service:** permit the Supplier to indefinitely suspend all Telecommunication Services, or to charge the Customer a reconnection fee for a suspension caused by the Supplier's error or failure;
- (b) **Refunds:** exclude or limit the Customer's right to a pro-rata refund of Charges incurred while a Telecommunications Service is suspended;
- (c) **Termination for convenience:** permit the Supplier to terminate a Standard Form Customer Contract for convenience during the term of a fixed period Standard Form Customer Contract;
- (d) **Penalty for breach:** require a Customer to pay a fee for a breach where the fee is inconsistent with

the Unfair Contract Terms provisions in Part 2-3 of the Australian Consumer Law;

- (e) **Extension of contract period:** permit the Supplier to renew or extend a fixed length Standard Form Customer Contract for a further term without obtaining the Customer's express consent a reasonable time before the renewal or extension, and in circumstances that would be inconsistent with the Unfair Contract Terms provisions in Part 2-3 of the Australian Consumer Law; and
- (f) **Unilateral variation by Supplier:** permit the Supplier to unilaterally amend or vary the contract or any matters related to the contract, the characteristics of Telecommunications Products or price, during the term of a contract, in circumstances when this would not comply with this Code and the law.

4.6 Customer Service

4.6.1 **Effective service:** A Supplier must ensure enquiries by Customers are dealt with by the Supplier in a timely and effective manner.

4.6.1.1 A Supplier must take the following actions to enable this outcome:

- (a) **Access:** promote easily accessible methods for Customers to contact the Supplier about Customer Service enquiries and the hours of operation of such 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 and seek to increase the level of first contact Resolution of Customer Service enquiries by taking reasonable steps to understand the root causes for why enquiries cannot be Resolved at first contact and seeking to address those root causes; and
- (d) **Record keeping:** keep records of interactions between the Supplier and Customers in a system which is accessible to staff who are typically tasked with responding to such Customer Service enquiries, so staff have historical data to aid in assisting Customers.

4.6.2 **Assessing performance:** A Supplier must seek feedback on how it deals with Customer enquiries and make improvements to its Customer Service processes and practices based on this feedback.

4.6.2.1 A Supplier must take the following actions to enable this outcome:

- (a) **Customer feedback:** obtain Customer feedback 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.

4.6.3 **Personal information:** A Supplier must ensure that a Customer's Personal Information is protected from unauthorised use or disclosure and dealt with by the Supplier in compliance with all applicable privacy laws.

4.6.3.1 A Supplier must take the following actions to enable this outcome:

- (a) **Storage:** have robust procedures for storing Customer's Personal Information which are followed by its staff;
- (b) **Security:** have robust procedures to keep Customer's Personal Information secure and restrict access to personnel who are authorised by the Supplier; and
- (c) **Breach:** ensure its staff understand that they may face disciplinary action, such as termination of their employment, if they breach the Supplier's privacy procedures, the Privacy Act or other privacy laws.

4.6.4 **4.6.4 Authority:** A Supplier must obtain appropriate authority before it accepts the appointment of a person as an Authorised Representative for a Customer, but not make the process of appointment unduly difficult to complete.

4.6.4.1 A Supplier must take the following actions to enable this outcome:

- (a) **Authority:** ensure it obtains the Customer's authority or the appropriate other authority such as a copy of the relevant power of attorney, before accepting a person as the Authorised Representative for a Customer;
- (b) **Record keeping:** keep a record of the circumstances and when the Authorised Representative was appointed;
- (c) **Assistance:** provide Consumers with access to information about how to appoint an Authorised Representative and access to any relevant forms required to evidence the appropriate authority;

- (d) **Acknowledgement:** keep records of notification(s) to the Supplier of a relevant change in circumstance for a Customer, including the death of a Customer or the making of a guardianship order for a Customer; and
- (e) **Balance risks:** take reasonable steps to balance the risks of fraud, privacy and security of Customers with facilitating the appointment of Authorised Representatives.

4.6.5 **Customer Service Charter:** A Supplier may choose to have a Customer service charter.

4.6.5.1 A Supplier may take the following actions to enable this outcome:

- (a) **Content:** Make available a Customer service charter that addresses Customer service information such as:
 - (i) the channels through which Customer contact is supported;
 - (ii) what a Customer can expect when they make an enquiry using one of those channels;
 - (iii) what a Customer can expect when they make a complaint; and
 - (iv) the consequences, if any, of the Supplier failing to meet any commitments it has made.

5 BILLING

Summary

This chapter sets out what Suppliers must do in relation to Billing and providing information about Bills and Charges to Customers arising out of the supply of Telecommunications Products.

General Rules

The general rules in chapter 3 apply in addition to the Rules in this chapter.

Rules

This chapter does not apply to the Billing of goods and services provided by a Supplier in relation to specific works and commercial arrangements that are not the Supplier's market offerings.

5.1 Information for Consumers about charging and Bills

A Supplier must make available to Consumers information about its Billing procedures and any Billing Options prior to that Consumer becoming a Customer.

5.1.1 **Provision of information:** A Supplier must take the following actions to enable this outcome:

- (a) **Pricing, Billing and payment terms:** ensure that in the Supplier's material that describes its Telecommunications Products, or on request, a Consumer may obtain information relevant to that Telecommunications Product or its Bill:
 - (i) on Charges and Discounts;
 - (ii) about its various Bill Formats;
 - (iii) about any Billing Options;
 - (iv) regarding the Supplier's Billing Period policy; and
 - (v) relating to the Supplier's terms and conditions applicable to the Bill, any Billing Options, its frequency and its payment.;

5.2 Charging Policies and Rules, Charging for Bills

Subject to the exceptions in clauses 5.2.1 (a) and (b), a Supplier must supply its Customers with a Bill using a Bill Media that the Customer has been advised of, and must make all information about a Customer's Billing available to that Customer.

5.2.1 **Providing Bills:** A Supplier must supply a Bill to Customers for each Billing Period, except in the following circumstances:

- (a) where the Charges are for the same fixed amount in each Billing Period and the Customer and Supplier have agreed, in the Supplier's terms and conditions for the relevant Telecommunications Product or otherwise, that, although a Charge for that fixed amount will be payable by the Customer, a Bill will not be issued unless the total amount payable in that Bill is more than 20% higher than that fixed amount; or
- (b) in respect of a Pre-Paid Service.

5.2.2 **Information required if no Bill:** If a Supplier does not issue a Bill, the Supplier must:

- (a) when clause 5.2.1 (a) applies, obtain the Customer's prior consent to any Charge that will be applied in addition to the fixed amount; and
- (b) clearly advise the Customer how to contact the Supplier if they have a Billing Enquiry.

5.2.3 **Format of Bill Media:** A Supplier must offer its Customers the ability to receive a Bill and any Billing information in a Bill Media that the Customer is able to store and reproduce. Bill Media options may include, but are not limited to, any one or more of the following Bill Media:

- (a) paper form sent by regular post;
- (b) email; or
- (c) online.

5.2.4 **Changes to Bill Media:** If a Supplier proposes to change its Bill Media, it must inform the Customer:

- (a) of the proposed change to the Bill Media; and
- (b) of any options open to the Customer in relation to that change.

Prior to levying any Charge for the issue of a Bill in additional Bill Media; or in Bill Media different from the Supplier's usual Bill Media for that Customer in addition to complying with clause 5.6.1, the Supplier must inform the Customer of the amount of the Charge and its method of calculation.

5.2.5 **Presentation and Format:** A Supplier must lay out and format Bills so that a Customer may easily read and understand its Bill.

5.2.6 **Billing information provided free of Charge:** A Supplier must, on request and irrespective of whether or not previously made available on a Bill or otherwise, make available to Customers and former Customers, all Billing information related to that Customer including Itemised details of all Charges, in a format that is able to be read and understood. This includes, where applicable, details of that Customer's mobile call, SMS and mobile data

usage. The Supplier must provide this information if requested at no cost to the Customer, at any time during the period of at least 13 months after the last Itemised Charge is incurred. After that period of 13 months has expired, the Supplier must provide such information to the Customer if requested during a period of at least 6 years, but may impose a Charge for the provision of this Billing information.

- 5.2.7 **Cost of providing Billing information:** If a Charge for providing Billing information is applied by a Supplier in accordance with clause 5.2.6 above, it must be limited to the cost of the providing the information.
- 5.2.8 **Cost of Billing Enquiry:** A Supplier which provides access to its Billing Enquiry point by telephone (including calls from a mobile phone) must provide such access at Untimed Call rates.
- 5.2.9 **Cost of data containing Billing information:** If a Supplier is making information from, or about, a Bill, available in an electronic form, it must offer at least one method of accessing that information that does not involve Charges being imposed by that Supplier (e.g. on a web site where the Supplier does not charge for data downloads).

5.3 The Bill

A Supplier must ensure that its Bills contain relevant Billing information.

- 5.3.1 **Descriptions in Bills:** A Supplier must ensure that items and categories in a Bill are described in a sufficient manner and with sufficient detail to enable a Customer to identify individual components of the Bill and readily understand them.
- 5.3.2 **Bill content requirements:** A Supplier must include in each Bill it issues, at least:
 - (a) the Customer's Billing Name and Billing Address;
 - (b) the Supplier's trading name and ACN and/or ABN;
 - (c) the Bill issue date and sequential identification (such as Invoice numbering or dates) to enable a Customer to readily identify if a previous Bill has not been received and readily determine the chronological order of Bills received;
 - (d) the Billing Period;
 - (e) a Customer account reference;
 - (f) a Customer reference to be used when paying online, which is the same on each Bill for that Customer for the same Telecommunications Products. A Supplier may, however, change the Customer reference from time to time when its circumstances require it (such as a change to its billing systems);

- (g) the current due date for the Billed Charges and the due date for any outstanding amount;
- (h) at least one free method of Bill payment, and advice to the Customer regarding any additional Charges (e.g. credit card merchant fees) that will apply for any additional payment method;
- (i) the name of, or reference for, the agreement or plan to which the Bill relates, including a listing of any bundled services to which the Bill relates;
- (j) a link (or if it is a paper bill, a web address) to the summary of the terms and conditions of the relevant Customer Contract for the Telecommunications Product to which the Bill relates;
- (k) any Charges that exceeded any spend limits or included allowance thresholds;
- (l) if any spend limit or included allowance threshold was exceeded during the Billing Period, an explanation of the effect on Charging or the Telecommunications Products provided, as a consequence;
- (m) a description of the Charges included in the Bill including the total amount of the Bill, any applicable Discounts or credits being applied to the Bill and, if relevant to a particular Charge, to that Charge, including any Third Party Charges, and in addition for Bills relating to a Post-Paid Service with an Included Value, the total amount of the Bill for of each the two previous Billing Periods;
- (n) an explanation of how the Customer may access details of their Telecommunication Product usage;
- (o) a contact point for Customers to make Billing Enquiries that includes at least a telephone number;
- (p) a contact point for Customers to obtain pricing information if not available from the contact point described in clause 5.3.2(o);
- (q) the hours of operation of the contact point in clause 5.3.2(o) above, if the contact point is open less than 24 hours, 7 days a week;
- (r) the nature of any Charges applying to Billing Enquiry calls, including information about any Charge greater than the Supplier's local call tariff, or equivalent.

5.3.3 **Bills for new products, features or services:** A Supplier must not release a new product, feature or service, except as part of a free trial, without having appropriate Billing arrangements in place, unless the Supplier:

- (a) has agreed with a specific recipient Customer or group of recipient Customers to provide them with customised or limited Billing arrangements; and
- (b) has clearly informed them of the details of the customised or limited Billing arrangements;

prior to the Supplier providing, or the Customer accessing, the product, feature or service.

- 5.3.4 A Supplier must ensure its Billing processes meet the needs of people with a disability, including any information that a Supplier is required to supply pursuant to the *Information on Accessibility Features for Telephone Equipment Industry Code (C625:2009)* and accompanying Guideline (G627:2011).

5.4 Timing of Bill

A Supplier must ensure that its Bills are delivered to Customers in a timely manner.

- 5.4.1 **Timeliness of Bill issue:** Suppliers must issue Bills to their Customers within 10 Working Days after closure of the Billing Period, except when:

- (a) system or processing problems or issues arise; or
- (b) a Force Majeure event occurs; or
- (c) a Supplier delays the issue of a Bill for Customer Service purposes;

and if any delay extends beyond 10 Working Days, the Customer must be granted an extension of time to pay of not less than the length of the delay.

- 5.4.2 **Timeliness for Billed Charges:** A Supplier must:

- (a) endeavour to incorporate all Charges relating to the current Billing Period into a Bill;
- (b) inform Customers that some Charges in a Bill may relate to a previous Billing Period; and
- (c) not Bill for Charges older than 160 days from the date the Charge was incurred by the Customer.

- 5.4.3 **Allowable delays:** A Supplier will not breach clause 5.4.2 because of delays due to:

- (a) changes to the applicable regulatory or legislative framework applicable to all Suppliers and one-off network infrastructure changes, where prior notice has been given to affected Customers; or
- (b) a Force Majeure event.

5.5 Verifying Charges

A Supplier must provide Customers with information to allow Customers to verify all Billing Charges.

- 5.5.1 **Supplier verification:** A Supplier must ensure it provides, and must be able to verify and demonstrate, Billing Accuracy except for inaccuracies caused by:
- (a) the Supplier's reliance on information provided by a person who is not its director, employee or agent;
 - (b) an action or failure of another person who is not the Supplier's director, employee or agent; or
 - (c) an accident, mistake or any matter beyond the Supplier's control, where the Supplier took reasonable care and precautions to avoid the inaccuracy.
- 5.5.2 **Customer verification of Charges:** A Supplier must ensure that sufficient information is readily available to the Customer to allow them to verify that Charges are correct and consistent with:
- (a) the Supplier's published or contracted Charges and Discounts; and
 - (b) the Telecommunications Products which the Customer has requested, used or contracted to receive.
- 5.5.3 **Itemised Charges:** A Supplier must ensure that Itemised details of all Charges relating to its Telecommunication Products are made available to the Customer on the Bill, unless the Customer otherwise requests or agrees, and upon request in relation to a Pre-Paid Service.
- 5.5.4 **Timed Calls:** A Supplier must supply or make available to the Customer Itemised Timed Call Charges on the Bill, unless the Customer otherwise requests or agrees, and upon request in relation to a Pre-Paid Service.
- 5.5.5 **Notice period for Itemised Billing:** A Supplier must inform Customers of any notice period required by the Supplier in order for the Supplier to provide Itemised Billing details to the Customer.

5.6 Payment Options

A Supplier must facilitate the easy payment and verification of payment of Bills by its Customers.

- 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 (eg by post).
- 5.6.2 **Verifying payment:** A Supplier must provide a means by which a Customer may easily verify any payments.
- 5.6.3 **Timeliness of Bill Payment Processing:** A Supplier must:

- (a) note Bill payments in the Supplier's relevant system within 48 hours from the start of the next Working Day after the Supplier is formally notified of payment;
- (b) apply payments received by the due payment date to the Customer's account:
 - (i) prior to generating the subsequent Bill; or
 - (ii) within 5 Working Days of the Customer's payment transaction,whichever is sooner; and
- (c) apply payments received after the due payment date within 5 Working Days of receiving the Customer's payment.

5.6.4 **Exceptions for Bill payment processing:** A Supplier will not breach clause 5.6.3 when:

- (a) system or processing problems occur;
- (b) the Supplier does not receive accurate, complete and timely information about a Customer's payment; or
- (c) a Force Majeure event occurs.

5.7 Direct Debit

A Supplier offering Direct Debit facility must ensure that its Customers can, on request, verify all Charges and Direct Debit authorisation details.

5.7.1 **Direct Debit Customers:** A Supplier offering Direct Debit facility to Customers must comply with the Customer's authorisation and:

- (a) must ensure that Customers can access all Billing information on request and before the Direct Debit occurs;
- (b) must ensure that a Customer can, on request, verify that its Direct Debit arrangements are in accordance with their authorisation;
- (c) must allow the 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'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 Customers can readily cancel a Direct Debit authorisation by providing a simple mechanism (such as email or faxed request to do so); and

- (f) must cancel a Direct Debit authorisation within 3 Working Days of receipt of the request detailed in clause 5.7.1 (e) above.

6 CREDIT AND DEBT MANAGEMENT

Summary

This chapter sets out what Consumers are entitled to from Suppliers, and what Suppliers must do, in relation to the provision and management of credit in connection with the supply of Telecommunications Products, including the denial and restriction of access to Telecommunications Services for credit-related reasons and the application of a Supplier's Financial Hardship policy.

General Rules

The general rules in chapter 3 apply in addition to the Rules in this chapter.

Rules

6.1 Access to Credit Management Information

Suppliers must ensure that a Consumer has timely access at no cost to all information relevant to Consumers regarding a Supplier's:

- (a) Spend Management Tools;
- (b) Security Tools;
- (c) credit assessment processes; and
- (d) Financial Hardship policy.

6.1.1 A Supplier must take the following actions to enable this outcome:

- (a) **Ease of Access:** make the information referred to in clause 6.1 easily accessible and easily searchable on the Supplier's website;
- (b) **Availability of information:** make the information referred to in clause 6.1 available in writing to a Consumer within 5 Working Days of a request from that Consumer;
- (c) **Spend Management Tools:** inform Customers about
 - (i) the availability of Spend Management Tools;
 - (ii) how to obtain assistance to use those Spend Management Tools; and
 - (iii) the cost of any Spend Management Tools offered directly by the Supplier; and
- (d) **Security Tools:** inform Customers about:
 - (i) the availability of Security Tools to prevent unauthorised access to or use of Telecommunications Services;

- (ii) how to obtain assistance to use those Security Tools; and
- (iii) the cost of any Security Tools offered directly by the Supplier.

6.2 Responsible provision of credit

Suppliers must provide credit responsibly to a Customer.

- 6.2.1 A Supplier must take the following actions to enable this outcome:
- (a) **Assess credit risk:** assess the credit risk in relation to the Telecommunications Products it offers to a Consumer and conduct its credit assessment accordingly;
 - (b) **Inform Consumer of credit assessment:** Where a credit assessment is undertaken, inform the Consumer prior to or at the time of the credit assessment of its general nature and effect;
 - (c) **Advising the Customer about liability:** where the Supplier is made aware by the Customer that the Customer is not going to be the principal end user of the Telecommunications Service, inform the Customer at the time it becomes aware (or as soon as practicable thereafter), that the Customer remains liable for the use of the Telecommunications Service;
 - (d) **Requiring a Guarantee:** if a Supplier requires a Guarantee as security for provision of any Telecommunications Product, the Supplier must provide written advice to the Guarantor regarding the nature and effect of the Guarantee before the Guarantee is provided by the Guarantor and the Telecommunications Product is provided by the Supplier; and
 - (e) **Cooling off period for Guarantor:** provide a Guarantor with a minimum 10 Working Days cooling off period in which the Guarantor may terminate the agreement containing the Guarantee.

6.3 Provision of information where service is denied on credit-related grounds

Suppliers must provide Consumers seeking a Telecommunications Service with information about a decision taken by a Supplier regarding the denial of the provision of that Telecommunications Service if the decision is at least partly taken because of information provided to the Supplier by a Credit Reporting Agency.

- 6.3.1 A Supplier must take the following actions to enable this outcome:

- (a) **Timing of information regarding denial:** provide the information in subclauses 6.3.1 (b), (c) and (d) to the Consumer in writing within 7 Working Days after the decision is made to deny the provision of the Telecommunications Service;
- (b) **Reason for denial:** inform the Consumer that the denial of the Telecommunications Service was based wholly or partly on information given to the Supplier by a Credit Reporting Agency;
- (c) **Credit Reporting Agency:** provide to the Consumer the name and address of the Credit Reporting Agency; and
- (d) **Right of access to credit information:** advise the Consumer of their right to access their credit information file maintained by the Credit Reporting Agency.

6.4 Provision of information where service is Restricted

Suppliers must provide Consumers seeking or using a Telecommunications Service with information about a decision taken by the Supplier in relation to a Restriction placed on the supply of or access to a Telecommunications Service:

- (a) at the time the Telecommunications Service is applied for; and/or
- (b) when a Restriction is subsequently applied.

6.4.1 A Supplier must take the following actions in relation to a Consumer seeking or using a Telecommunications Service to enable this outcome:

- (a) **Explain Restrictions at time of application:** if restricted at the time the Telecommunications Service is applied for, explain to the Consumer the general nature of the reasons for the Restriction;
- (b) **Written explanation of Restrictions:** prior to a Restriction being applied, provide an explanation to the Consumer of the Restriction and/or related conditions which apply to the Telecommunications Service and provide that explanation in writing upon request;
- (c) **Continuing access:** prior to a Restriction being applied, inform the Consumer which of the Supplier's Telecommunications Services the Consumer will have access to after the Restriction is applied;
- (d) **Removal of Restrictions:** if applicable, prior to a Restriction being applied, explain how a Consumer may have the Restriction removed;
- (e) **Who may remove Restrictions:** prior to a Restriction being applied, inform the Consumer if the Restriction can be removed by anyone other than the Consumer;

- (f) **Restriction as Credit Management action:** if a Restriction is to be applied as a Credit Management action, inform the Consumer of the Restriction and the reason for it, using the Supplier's usual method of communication with that Consumer; and
- (g) **Oral advice of Restriction:** where the Consumer is informed orally of the Restriction and the reasons for it, the Supplier must make attempts to ascertain whether the Consumer has understood the oral advice given.

6.5 Security deposit

In the event that a Security Deposit is required by a Supplier, the Supplier must provide the Consumer with information about the terms of that Security Deposit, including the circumstances in which the Security Deposit may accrue interest, be forfeited or be repaid.

6.5.1 A Supplier must take the following actions to enable this outcome:

- (a) **Requirement for a Security Deposit:** base the requirement for a Security Deposit on a credit assessment conducted in relation to the Consumer and the Telecommunications Product to be acquired by the Consumer;
- (b) **Prior agreement to Security Deposit:** obtain the Consumer's prior agreement as to the circumstances in which the Security Deposit or part thereof will be forfeited or, in the absence of such agreement, the Supplier may decline to supply to the Consumer the relevant Telecommunications Product;
- (c) **Repayment and interest information:** within 10 Working Days of the Supplier receiving the Security Deposit, advise the Consumer in writing of repayment and interest arrangements and the account to which the Security Deposit will be applied;
- (d) **Opportunity to pay:** before accessing the Security Deposit, advise the Consumer that the Security Deposit will be accessed within 5 Working Days and provide an opportunity for the Consumer to pay within that period; and
- (e) **Making of repayment:** repay to the Consumer the amount of the Security Deposit (or the balance then remaining), and interest accrued in relation to it, within 10 Working Days of the Consumer:
 - (i) satisfactorily completing the terms of the Security Deposit arrangements; or
 - (ii) ceasing to receive the relevant Telecommunications Products from the Supplier.

6.6 Spend Management Tools

Suppliers must provide Customers with access to Spend Management Tools.

6.6.1 A Supplier must take the following actions to enable this outcome:

- (a) provide a comprehensive description of its available Spend Management Tools in a prominent and/or easily navigable and/or easily searchable position on its website;
- (b) include information in its summaries of its Offers referred to in clause 4.1.2 as to where Customers can access information about the Supplier's Spend Management Tools;
- (c) inform a Customer of the approximate delay of any unbilled usage information provided to that Customer; and
- (d) for Residential Customers, where offering a post-paid mobile or internet plan with an included data allowance and in circumstances where no shaping/throttling or Hard Cap applies, provide Residential Customers with a notification once a Residential Customer has used:
 - (i) 50% of the data allowance included in their plan; and
 - (ii) 80% of the data allowance included in their plan; and
 - (iii) 100% of the data allowance included in their plan and which includes the information as to whether excess data charges would apply thereafter.

The usage and/or expenditure notifications in clause 6.6.1 (d) (i) to (iii) must be provided no later than 48 hours after a Residential Customer has reached the respective usage and/or expenditure thresholds.

The usage and/or expenditure notifications in clause 6.6.1 (d) (i) to (iii) must be provided via SMS where post-paid mobile plans are concerned and via email where internet plans are concerned.

However, at the Supplier's discretion the Supplier may allow Residential Customers to opt-out of receiving all or some of the above notifications; and/or to receive more notifications; and/or to receive notifications at different usage points chosen by the Residential Customer; and/or to receive notifications via a different method chosen by the Residential Customer.

This clause 6.6.1 (d) only applies to data usage and/or expenditure incurred within Australia.

- 6.6.2 While features of the Supplier's Spend Management Tools will vary between Suppliers, a Supplier may make available to Customers one or all of the following:
- (a) the ability for Customers to receive notifications from the Supplier regarding the Customer's usage of a Telecommunications Service, as agreed with or made available by their Supplier;
 - (b) the ability for Customers to access usage information that is near to real-time information e.g. ideally no older than 48 hours;
 - (c) the ability for Customers to choose a product that features either cessation of a Telecommunications Service or of an aspect of a Telecommunications Service within an advised timeframe, or another form of control that limits use of the Telecommunications Service in such a way as to stop charges for that Telecommunications Service exceeding and agreed spend limit within the relevant Billing Period;
 - (d) call barring or Restrictions on certain Telecommunications Services (e.g., more expensive Telecommunications Services);
 - (e) providing usage charge advise before or during the use of a high value Telecommunications Service;
 - (f) prepaid services except those with a balance triggered automatic top up;
 - (g) Hard Caps;
 - (h) reducing broadband internet download speed when a usage limit is reached.

6.7 Access to information about payment and debt collection processes

Suppliers must, at no cost, provide Customers with timely access to such information as is necessary to allow a Customer to be informed of a Supplier's payment and debt collection processes.

- 6.7.1 A Supplier must take the following actions to enable this outcome:
- (a) **Information about payment difficulties:** provide timely access to and information regarding, processes to assist Customers who are experiencing difficulties paying their Bills; and

- (b) **Bill payment information:** at the time of, or before, the issue to the Customer of the first Bill by the Supplier, advise Customers in general terms of:
- (i) the time they have to pay for Telecommunications Services;
 - (ii) their obligation to pay Bills for Telecommunications Services by the due date;
 - (iii) any processes the Supplier has for:
 - A. interim Billing or changes in the Billing Period;
 - B. following up overdue Bills;
 - C. assisting Customers who experience difficulties paying their Bills, including where to access the Supplier's Financial Hardship policy as referred to in clause 6.12.
 - (iv) the effect of part payment of a Bill and any method used by the Supplier for allocating amounts received; and
 - (v) the fact that non-payment or repeated late payment of Bills may have an effect on the provision by the Supplier of current or future Telecommunications Services to the Customer.

6.8 Notice to restrict, suspend or disconnect a service

Suppliers must ensure Customers are given adequate notice regarding a decision by the Supplier to Restrict, Suspend or disconnect their Telecommunications Service.

6.8.1 A Supplier must take the following actions to enable this outcome:

- (a) **Pre-conditions for disconnection, suspension or restriction:** only disconnect, Suspend or Restrict a Telecommunications Service, without first informing the Customer, if:
- (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;

- (b) **Notice of disconnection, suspension or restriction:** unless subclause 6.8.1 (a) applies, give the Customer at least 5 Working Days notice prior to the Suspension, disconnection or Restriction of the Telecommunications Service, including an indication of the earliest date the disconnection, Suspension or Restriction could occur and the date of issue of correspondence if they are informed in writing. When notifying a Customer about a Supplier's Restriction, Suspension or disconnection of the Customer's Telecommunications Service, the Supplier must:
- (i) make reasonable attempts to ascertain whether the Customer has understood any oral advice given;
 - (ii) ensure that attempts to inform are directed to the Customer;
 - (iii) ensure that the primary method used is in a format reasonably acceptable to the Customer based on their usage history;
- (c) **Ongoing Charges:** advise the Customer of any on-going or additional Charges that will still apply if the Telecommunications Service is Restricted or Suspended;
- (d) **Disconnection notice:** send a separate written disconnection notice, not just a Bill, to the Customer and any relevant Guarantor prior to disconnecting the Telecommunications Service. The notice of disconnection must inform the Customer and Guarantor that, after disconnection has occurred:
- (i) the Customer's Telecommunications Service plan and/or Telecommunications Product (and/or, where applicable, telephone number), may no longer be available;
 - (ii) information about the Customer's default leading to the disconnection may be disclosed to a Credit Reporting Agency and/or collection agency and/or debt buyer;
 - (iii) the debt may be passed to a collection agency and/or debt buyer;
 - (iv) legal action may be taken to recover the unpaid debt and/or the debt may be sold to a debt buyer;
- and of how the Customer may access the Supplier's Financial Hardship policy.

6.9 Fair Credit Management process

Suppliers must ensure that Customers are treated with fairness in relation to the Credit Management process.

- 6.9.1 A Supplier must take the following actions to enable this outcome:
- (a) **Review:** following a Customer's request, review any decision to Restrict, Suspend or disconnect the Telecommunications Service and inform the Customer of the outcome of that review. If the review is not undertaken and completed by the Supplier at the time of the Customer's request, the Supplier must notify the Customer at that time when the review will be completed;
 - (b) **Supplier's mistake:** not impose a reconnection Charge following Suspension or disconnection if it resulted from the Supplier's mistake;
 - (c) **Credit Management Charges:** not impose Credit Management Charges unless the Charges are a reimbursement of the Supplier's costs and the Customer is advised of its amount or method of calculation;
 - (d) **Issues following sale of debt:** Resolve any Billing Complaint or Telecommunications Service issues that arise after an amount has been sold or assigned to a third party;
 - (e) **Default listed in error:** where a Supplier becomes aware that a Customer has been default listed in error, inform the Credit Reporting Agency within 1 Working Day;
 - (f) **Updates to Credit Reporting Agencies:** ensure that it has a process for updating its Customers' credit information with a Credit Reporting Agency as soon as practicable, unless the Privacy Act or its associated codes or regulations specify a timeframe for such notification, in which case that requirement must be followed;
 - (g) **Failure to pay through no fault of Customer:** where a Customer can demonstrate that they have taken all reasonable steps to pay a known due debt but the Bill has not been paid due to the fault of a third party or the Supplier, the Supplier must ensure that:
 - (i) if the Customer has been default listed with a Credit Reporting Agency as a result, it notifies the Credit Reporting Agency within 1 Working Day;
 - (ii) no additional Charges apply; and

- (iii) no other credit related disadvantages arise for the Customer.

6.10 Credit management for disputed amounts

Suppliers must ensure that Credit Management action and reporting is not undertaken in relation to a specified disputed amount that is the subject of an open Complaint.

- 6.10.1 A Supplier must take the following actions to enable this outcome:
- (a) **amounts that are the subject of an open Complaint:** not take Credit Management action in relation to a specified disputed amount that is the subject of an open Complaint in circumstances where the Supplier is aware that the dispute is being investigated and remains unresolved by the Supplier, the TIO or a relevant recognised third party;
 - (b) **Timing of commencement of Credit Management action:** advise the Customer when the Supplier will commence any Credit Management action after that dispute has been determined;
 - (c) **Separation of debts:** take steps to ensure that debts sold or assigned to third parties or listed with a Credit Reporting Agency do not include any specified disputed amounts that is the subject of an open Complaint; and
 - (d) **Amounts not the subject of genuine dispute:** where part of an amount on a Bill is the subject of an open Complaint, advise the Customer that Credit Management action may be undertaken in relation to those amounts which are not the subject of that open Complaint.

6.11 Debt collection

Suppliers must ensure that their arrangements with debt collection agents include provisions which comply with the requirements of legislation, and debt collection codes and guidelines as determined from time to time by recognised bodies such as the ACCC and ASIC.

- 6.11.1 A Supplier must take the following actions to enable this outcome:
- (a) **Pre-condition for referral to debt collection:** ensure that Credit Management is carried out in accordance with the requirements of this chapter prior to referring the Customer's debt to a debt collection agency, listing a Customer default with a Credit Reporting Agency, or selling the debt;

- (b) **Collection activities:** while ever it is in force, adopt best practice as set out in the ACCC guideline *"Debt collection guideline for collectors and creditors: joint publication by ACCC and ASIC"* issued in October 2005 when collecting amounts due;
- (c) **Disadvantaged and vulnerable Customers:** in their collection activities, while ever it is in force, adopt best practice as set out in the ACCC Compliance Guide *"Don't take advantage of disadvantage: a compliance guide for businesses dealing with disadvantaged or vulnerable consumers when collecting amounts due"* issued on 15 August 2005;
- (d) **Internal dispute resolution:** require that all of the Supplier's debt collection activities have an internal dispute resolution process;
- (e) **Debt buyers:** only sell a debt to a debt buyer if that debt buyer is a member of an ASIC approved external dispute resolution scheme; and
- (f) **Notification of sale of debt:** notify the Customer in writing within 25 Working Days that the debt has been sold, or arrange for the purchaser of the debt to do so.

6.12 Accessibility of Financial Hardship policy

Suppliers must have a Financial Hardship policy and ensure that it is easily accessible to Consumers.

6.12.1 A Supplier must take the following actions to enable this outcome:

- (a) **Accessibility of Financial Hardship policy:** ensure that its Financial Hardship policy is in a prominent and/or easily navigable and/or easily searchable position on the Supplier's website;
- (b) **Contact details:** provide, on the Supplier's website, relevant contact details of staff with whom the Consumer may discuss the Financial Hardship policy;
- (c) **Community financial counsellor:** provide, on the Supplier's website, details of a source at which may be located contact details of community financial counsellors or consumer advocates who deal with financial difficulty matters;
- (d) **Summary of Financial Hardship policy:** provide a summary of the Financial Hardship policy on request to a Consumer at no cost which contains at least the following information;

- (i) options available to Customers to assist with their management of Financial Hardship as it relates to their use of Telecommunications Services (e.g. spend controls, Restriction of service);
- (ii) available times for contact with the Supplier regarding the Financial Hardship policy;
- (iii) information that the Supplier might require a Customer to provide to make an assessment of Financial Hardship under the Financial Hardship policy, e.g. income details, details of the Telecommunications Service (telephone number, broadband) and most recent contact details; and
- (iv) generally how the Supplier makes an assessment of Financial Hardship under the Financial Hardship policy;
- (e) **Training of staff:** ensure that the Supplier's staff who are directly involved in applying the Financial Hardship policy are appropriately trained; and
- (f) **Access to trained staff:** ensure that Customers have easy access to staff who are trained in the Financial Hardship policy.

6.13 Fair and timely Financial Hardship assessment

Suppliers must assess a Customer's eligibility for assistance under the Supplier's Financial Hardship policy in a fair and timely manner.

6.13.1 A Supplier must take the following actions to enable this outcome:

- (a) **Information required:** inform the Customer of the information which the Supplier requires to assess a Customer's eligibility for assistance under the Financial Hardship policy and inform the Customer that the assessment may be based on that information provided by the Customer;
- (b) **Communicate with Customer:** inform the Customer:
 - (i) that, if the Supplier requires supporting documentation from a Customer to assess its eligibility for assistance under the Financial Hardship policy, the Customer must send the documentation to a specific contact point and provide their:
 - A. postal address; and/or
 - B. facsimile number or email address;

- (ii) if the information provided by the Customer is not sufficient to make an assessment of eligibility under the Financial Hardship policy and of what other information is needed to make such an assessment;
 - (iii) that, where the requested information is not provided, an assessment may not be made;
 - (iv) regarding how long it will take to make an assessment for assistance; and
 - (v) that the provision of false or incomplete information may result in the Supplier cancelling any hardship arrangements;
- (c) **Customers understanding:** in relation to the provision of information referred to at clauses 6.13.1 (a) and (b), the Supplier must make attempts to ascertain whether the Customer has understood the information in requests being made by the Supplier;
- (d) **Timing of assessment:** ensure that an assessment regarding eligibility for assistance under a Financial Hardship policy is made within 7 Working Days after receipt of the final information from the Customer;
- (e) **Failure to meet criteria:** inform the Customer immediately if assistance will not be given where it is clear to the Supplier that the Customer does not meet assistance criteria;
- (f) **Flexible repayment options:** provide flexible repayment options to meet Customer circumstances;
- (g) **No charge for assessment:** not charge for an assessment of, or subsequently for administration of, an arrangement under a Financial Hardship policy; and
- (h) **Customers changed circumstances:** be willing and able to review the arrangements if the Customer's circumstances change.

6.14 Communication of Financial Hardship arrangements

Suppliers must communicate to a Customer all necessary details of a Customer's arrangements under a Financial Hardship policy.

6.14.1 A Supplier must take the following actions to enable this outcome:

- (a) **Arrangement details:** supply to a Customer details of the Financial Hardship arrangement on request in Writing

and through any other means agreed between the Customer and Supplier;

- (b) **Rights and obligations:** inform the Customer of their rights and obligations under the Financial Hardship arrangement, including without limitation that Customers have an obligation to promptly advise a Supplier if the Customer's circumstances change during the term of the Financial Hardship arrangement;
- (c) **Duration of arrangement:** advise the Customer of the duration of the Financial Hardship arrangement or of the review date of the arrangement; and
- (d) **Commencement of arrangement:** ensure that the Financial Hardship arrangement will not commence unless the Customer indicates their acceptance.

6.15 Credit Management in Financial Hardship

Suppliers must suspend Credit Management actions whilst an arrangement made under a Financial Hardship policy is in place unless the Customer agrees otherwise or there is a breach by the Customer of that arrangement.

6.15.1 A Supplier must take the following actions to enable this outcome:

- (a) **Suspension of Credit Management action:** suspend Credit Management action whilst an arrangement made under a Financial Hardship policy is in place unless:
 - (i) the Customer does not meet their obligations under the arrangement. In that event, if the Customer does not contact the Supplier to discuss a new arrangement, the Supplier must take reasonable steps to contact the Customer before taking Credit Management action;
 - (ii) the Supplier decides it is reasonable to do so given the circumstances, e.g. to prevent a further increase in the debt owed; and
 - (iii) the Customer agrees that the arrangement is unable to be completed;
- (b) **Restarting Credit Management action:** restart Credit Management action when one or more of the above conditions are met (as applicable to the Customer's individual situation) and the Supplier is unable, using reasonable steps, to make contact with the Customer; and

- (c) **Prohibition on certain debt sale:** not sell the debt while an arrangement under a Financial Hardship policy is in place.

7 CHANGING SUPPLIERS

Summary

This chapter sets out Consumer rights and Supplier obligations when Consumers seek to change their current Supplier of a Telecommunications Service to an alternative Supplier. It also sets out Suppliers' obligations to Customers when a transfer of a Customer's Telecommunications Service arises as a result of the sale of a Supplier's business or a corporate reorganisation of the Supplier.

General Rules

The general rules in chapter 3 apply in addition to the Rules in this chapter.

Rules

7.1 New Relationship

A Gaining Supplier must ensure that, when effecting a Transfer, it complies with all requirements of other chapters of this Code which apply to the establishment of a new relationship with the Consumer.

7.2 Obtaining Consent

A Gaining Supplier must use reasonable endeavours to ensure that a Consumer is only the subject of a Transfer by a Gaining Supplier if the Consumer has provided their consent to such Transfer.

7.2.1 A Gaining Supplier must take the following steps to enable this outcome:

- (a) **Consent:** obtain the consent to a Transfer from the Consumer who holds the Telecommunications Service to be transferred;
- (b) **Authorisation:** use its reasonable endeavours to ensure that the person requesting the Transfer on behalf of a Consumer is authorised to do so; and
- (c) **Correct Consumer and service:** if dealing with an Authorised Representative, ensure the Telecommunications Service is in the name of the Consumer;

7.3 What Constitutes Consent

A Gaining Supplier must take all reasonable steps to ensure that the consent obtained from a Consumer to undertake a Transfer is informed consent.

7.3.1 A Gaining Supplier must, before initiating a Transfer, inform the Consumer of the following and must not effect the Transfer until

the Consumer subsequently agrees to the Transfer. The Gaining Supplier must inform the Consumer:

- (a) **New Customer Contract:** that the Consumer is entering into a new Customer Contract by agreeing to the Transfer;
- (b) **Details of services:** of the details of the Consumer's Telecommunications Service being transferred;
- (c) **Identity of Gaining Supplier:** of the identity of the Gaining Supplier;
- (d) **Service interruption:** whether there will be an interruption to the Telecommunications Service as a result of the Transfer process;
- (e) **Equipment compatibility:** as to whether equipment the Consumer has for their existing Telecommunications Service will be compatible with the Gaining Supplier's Telecommunications Service;
- (f) **Equipment terms and conditions:** of the relevant terms and conditions relating to any equipment purchased from the Gaining Supplier for use with the Telecommunications Service being Transferred; and
- (g) **Penalties and fees:** that the Consumer may have to pay a penalty or cancellation fee to their existing Supplier, and that there may be other consequences if they are ending their existing Customer Contract with another Supplier early.

7.4 Information to be provided regarding a Transfer

A Gaining Supplier must ensure that a Consumer receives information about;

- (a) the Gaining Supplier;
- (b) the Transfer process; and
- (c) lodging a Complaint about the Transfer process;

at the time at which a Transfer is proposed by or on behalf of the Gaining Supplier or is requested by the Consumer.

7.4.1 A Gaining Supplier must take the following steps to enable this outcome at the time at which a Transfer is proposed by or on behalf of the Gaining Supplier or is requested by the Consumer.

- (a) **Minimum information:** make available at least the following information to the Consumer:

- (i) the contact details of the Gaining Supplier;
 - (ii) that the Gaining Supplier will use reasonable efforts to notify the Consumer of the completion of the Transfer on the day it occurs or, if completion of the Transfer relies on a third party, on the day the Gaining Supplier is advised that completion has occurred;
 - (iii) the appropriate contact details for lodging an inquiry or a complaint about any aspect of the Transfer;
 - (iv) the mechanism by which the Consumer can ascertain that the Transfer has occurred;
- (b) **Check accuracy:** check the accuracy of the Transfer details with the Consumer including at least:
 - (i) the name and address of the Consumer;
 - (ii) the details of the Telecommunications Service and number, if applicable to be Transferred;
 - (iii) the identity of the Gaining Supplier; and
 - (iv) the fact that the Telecommunications Service will be Transferred to the Gaining Supplier; and
- (c) provide the Consumer with the terms and conditions of the Transfer and a summary of the Transfer details.

7.5 Consumers to be kept informed

During the Transfer process, the Gaining Supplier must keep the Consumer informed of any changes to the Transfer process which may affect the Consumer, or changes to the estimated time by which the Transfer will be completed.

- 7.5.1 The Gaining Supplier must take the following actions during the Transfer process to enable this outcome:
- (a) **Process changes:** keep the Consumer informed in a timely manner of any changes to the Transfer process which may affect the Consumer, including details of any process delays and changes to appointment times; and
 - (b) **Time of completion:** keep the Consumer informed in a timely manner of any changes to the estimated time by which the Transfer will be completed.

7.6 Notification of completion of a Transfer

A Gaining Supplier must notify the Customer when a Transfer is complete.

- 7.6.1 The Gaining Supplier must take the following actions to enable this outcome:
- (a) **Same day notification:** use reasonable efforts to notify the Customer of the completion of the Transfer on the day it occurs or, if completion of the Transfer relies on a third party, on the day the Gaining Supplier is advised that completion has occurred; or
 - (b) **Subsequent notification:** if the Gaining Supplier, having made reasonable efforts, is unable to provide notification at the time referred to above, notify the Customer of the completion of the Transfer within 5 Working Days of the time referred to above.

7.7 Keeping Records regarding Transfers

A Gaining Supplier must keep records to enable a Consumer to verify that the Transfer process was undertaken in accordance with this chapter.

- 7.7.1 The Gaining Supplier must create, and retain for a minimum of 2 years after the completion of the Transfer or as required by law, auditable records establishing that:
- (a) **Authorisation:** the person who authorised the Transfer advised the Gaining Supplier that they were authorised to do so; and
 - (b) **Compliance with requirements:** the Transfer was undertaken and advised to the Consumer in accordance with this chapter.

7.8 Accessing Records regarding Transfers

A Gaining Supplier must, at the request of the Consumer, provide the Consumer with access to records maintained by the Gaining Supplier regarding a Transfer for a minimum period of 2 years following completion of the Transfer.

- 7.8.1 The Gaining Supplier must take the following actions to enable this outcome:
- (a) **Access to records:** for a minimum of 2 years after the completion of the Transfer, provide the Consumer with access to the records maintained by the Gaining Supplier regarding the Transfer, including any voice recording of their Transfer request;
 - (b) **Form of access:** If the Consumer requests, for a minimum of 2 years after the completion of the Transfer a Gaining Supplier must provide to the Consumer (or, with the Consumer's consent, to a nominated party) either electronic or written copies of records relating to that

Consumer's Transfer in a format that is clear, unambiguous and easily understood by Consumers generally.

7.9 Verification of Transfers

A Gaining Supplier is responsible for the acts or omissions of its Sales Representatives engaged in undertaking a Transfer.

- 7.9.1 A Gaining Supplier must ensure that it uses appropriate procedures for:
- (a) **Verification:** the Verification of a Transfer, or an appropriate sample of Transfers, in all selling channels where the Gaining Supplier or its Sales Representative initiates the contact with the Consumer which leads to a Transfer request; and
 - (b) **Identity of Sales Representative:** identifying the Sales Representative responsible for effecting a Transfer.

7.10 Customer's right to rescind

A Gaining Supplier must ensure that Customers may rescind a Customer Contract arising from a Transfer before any relevant cooling off period expires without giving the Gaining Supplier reasons, other than those required to be given by law.

- 7.10.1 The Gaining Supplier must take the following actions to enable this outcome:
- (a) **Provision of information:** ensure the Customer is given all information about any cooling off period and rights of cancellation which arise under legislation relating to that Transfer;
 - (b) **Form of notice:** ensure any notice to the Customer regarding the right to rescind a Customer Contract arising from a Transfer is in the form required by any law;
 - (c) **Cooling off period prohibitions:** ensure that the Gaining Supplier does not:
 - (i) complete a Transfer prior to the expiry of any applicable cooling off period;
 - (ii) seek or knowingly retain payment for any Telecommunications Services supplied under a Customer Contract which is cancelled within the cooling off period; and
 - (iii) accept a waiver of a cooling off period arising in relation to a Transfer.

7.11 Sale of Supplier's Business or Supplier Re-organisation

If a Supplier proposes to Transfer a Customer's Telecommunications Service as the result of a sale of the Supplier's business or a Corporate Reorganisation, the Supplier must notify the Customer in writing prior to that Transfer being initiated. The Supplier must ensure that that Customer may terminate its Customer Contract for that Telecommunications Service within the period specified in this clause 7.11.

7.11.1 A Supplier must take the following actions to enable this outcome:

- (a) **Notification of Transfer:** before the Transfer is initiated, notify the Customer in the manner in which the Supplier normally communicates with the Customer:
 - (i) that the Customer's Telecommunications Service will be Transferred to the Gaining Supplier as a result of a sale of the Supplier's business or a Corporate Reorganisation;
 - (ii) of the contact details of the Gaining Supplier;
 - (iii) of the proposed date by which the Transfer will be completed;
 - (iv) that the Supplier will use reasonable efforts to notify the Customer of the completion of the Transfer on the day it occurs;
 - (v) of the appropriate contact details for lodging an inquiry or a complaint about any aspect of the Transfer;
 - (vi) of any details then known to the Supplier regarding how the Customer's Telecommunications Service may be the subject of a materially adverse effect regarding, its features, characteristics or pricing as a result of the Transfer; and
 - (vii) that the Customer may terminate the relevant Customer Contract relating to the Telecommunications Service by providing a notice in writing to that effect within 30 Working Days of the Supplier's notice;
- (b) **Termination by a Customer:** ensure that, if so notified by the Customer pursuant to clause 7.11.1 (a), the Supplier terminates the relevant Customer Contract relating to the Telecommunications Service within 5 Working Days of receiving the Customer's notice.

7.11.2 A Gaining Supplier in relation to a Transfer the subject of this clause 7.11 must keep records, for a minimum of 2 years after completion of the Transfer, needed to enable a Customer to

verify that the Transfer process was undertaken in accordance with this clause 7.11.

- 7.11.3 Provided that a Supplier complies with the terms of this clause 7.11 in circumstances where a Transfer of a Customer's Telecommunications Service arises as a result of a sale of the Supplier's business or a Corporate Reorganisation, the Supplier is not required to comply with the other provisions of this Chapter in relation to such a Transfer except for clauses 7.5, 7.6 and 7.8.

8 COMPLAINT HANDLING

Summary

This chapter sets out what Consumers are entitled to from Suppliers, and what Suppliers must do, in relation to the handling and Resolution of Complaints in connection with the supply of Telecommunications Products, including requirements for managing, monitoring, analysing, recording and reporting Complaints.

This chapter specifically sets out the obligations for Suppliers to advise Consumers, in certain circumstances, of their options for external dispute resolution. The TIO is one such option. The TIO is "an independent alternative dispute resolution scheme available free of charges to small business and residential Consumers in Australia". However the Supplier must be given a reasonable opportunity to settle a complaint with a Consumer before the TIO will become involved.

The requirements set out in this chapter have been determined having regard to the Australian Standard – Complaint Handling AS ISO 100002-2006.

Objectives

General Rules

The general rules in chapter 3 apply in addition to the Rules in this chapter.

Rules

This chapter does not apply to:

- (a) Complaints that are subject of legal action;
- (b) Complaints made in respect of, or on behalf of Consumers by entities levying fees or charges for their services, other than legal practitioners, and
- (c) Complaints made under the *Deployment of Mobile Phone Network Infrastructure Code (ACIF C564:2004)*.

The processes specified in this chapter apply to all Complaints from all other sources including the TIO. However the timeframes specified in this Chapter do not apply to Complaints from the TIO.

8.1 Provision of a Complaint handling process that is accessible, transparent and free of charge

Suppliers must provide Consumers with a Complaint handling process which is:

- (a) accessible;
- (b) transparent; and
- (c) free of charge, other than as expressly provided for in this chapter;

and which provides for the timely and fair Resolution of Complaints.

8.1.1 A Supplier must take the following actions to enable this outcome:

- (a) **Implement a process:** implement and maintain a Complaint handling process that:
 - (i) is Consumer focused and easy to use;
 - (ii) is free of charge, other than for the call costs referred to in clause 8.1.1 (a)(vii)(A) and for the provision of information where:
 - A. a Consumer requests access to information held by the Supplier about the Consumer which was collected by the Supplier more than 2 years prior to the date of the request; or
 - B. the free provision of the information in the form requested is inconsistent with the usual business processes of the Supplier;

in which circumstances, the Supplier may levy a reasonable charge provided that the Supplier must inform the Consumer of the proposed charge and notify the Consumer of the option to pursue the Complaint and pay the charge or to discontinue the Complaint. The Supplier must tell the Consumer about the options for external dispute resolution before levying any Charge under this paragraph.

- (iii) is approved by, and provides that, the Chief Executive Officer (or equivalent) of the Supplier is responsible for ensuring its implementation and operation in accordance with the requirements of this chapter;
- (iv) is under the direction of a senior manager who is responsible for maintaining its effective and efficient operation in accordance with the requirements of this chapter;
- (v) clearly states that Consumers have a right to make a Complaint;
- (vi) sets out the response times for individual steps in the management of Complaints;
- (vii) is accessible including:
 - A. by provision of a free, local or low cost access number from the service provided by the Supplier;

- B. setting out how, when and where a Consumer can make a Complaint;
 - C. allowing a Complaint to be made by letter, telephone, fax, online or email;
 - D. where a Supplier has retail operations, allowing a Complaint to be made in person in store;
 - E. offering assistance to Consumers to formulate and lodge Complaints if requested;
 - F. allowing Consumers to use an Authorised Representative and/or an Advocate to make a Complaint;
 - G. setting out the circumstances in which a Complaint will be treated as urgent and how the management of Urgent Complaints differs from other Complaints; and
 - H. recognising and servicing the needs of Consumers with disabilities, Consumers suffering hardship and Consumers from non-English speaking backgrounds.
- (viii) requires all Complaints to be treated in an objective, efficient and fair manner and prohibits a Supplier from cancelling a Consumer's Telecommunications Service only because, being unable to Resolve a Complaint with their Supplier, that Consumer pursued their options for external dispute resolution;
- (ix) provides for investigation of Complaints to an extent commensurate with the seriousness of the Complaint, while acknowledging that Suppliers may choose to Resolve a Complaint commercially to the satisfaction of the Consumer without an investigation;
- (x) requires all TIO costs relating to the Complaint to be borne by the Supplier and not passed on to Consumers;
- (xi) is transparent, including:
- A. providing an internal prioritisation process which is clear and accessible to Consumers;
 - B. providing an internal escalation process which is clear and accessible to Consumers;

- C. providing clear and accessible information about options for external dispute resolution including the TIO;
 - D. requiring Consumers to be advised of the outcome of their Complaint; and
- (xii) meets the minimum performance standards of Complaint management, Complaint analysis, resourcing and record keeping set out in clauses 8.2 to 8.5 below;
- (b) **Document the process:** document its Complaint handling process and make it available to staff, Consumers and other stakeholders in a summary form that is:
 - (i) concise;
 - (ii) easy to understand;
 - (iii) easily accessible;
 - (iv) free of charge;
 - (v) available in hard copy upon request;
 - (vi) available in soft copy, which is in a prominent, easily navigable and /or easily searchable position on the Supplier's website; and
 - (vii) in appropriate different formats, to ensure that the Supplier meets the commitment to servicing the needs of Consumers with disabilities and Consumers from non-English speaking backgrounds in accordance with this chapter;
- (c) **Ensure staff awareness and visibility:** ensure its staff including personnel working for contractors supplying Customer facing services to the Supplier are made aware of the Complaint handling process, their responsibilities under it and are able to identify and record a Complaint;
- (d) **Monitor and report:** formally monitor and report
 - (i) at least annually to the Chief Executive Officer (or equivalent) of the Supplier regarding its compliance with its Complaint handling process and opportunities for improvement; and
 - (ii) on a quarterly basis to the Supplier's senior management regarding the matters set out in this chapter.

8.2 Complaint management

Consumers who make a Complaint to a Supplier will be treated with fairness and courtesy, and their Complaint will be dealt with objectively and efficiently by the Supplier.

8.2.1 A Supplier must take the following actions to enable this outcome:

(a) **Demonstrate fairness, courtesy, objectivity and efficiency:**
Suppliers must demonstrate, fairness and courtesy, objectivity, and efficiency by:

(i) acknowledging Complaints:

- A. immediately where the Complaint is made in person or by telephone;
- B. within 2 Working Days where the Complaint is made by:
 - email;
 - being logged via the Supplier's website or another website endorsed by the Supplier for that purpose;
 - post but a posted response is not requested;
 - telephone and a message is recorded without direct contact with a staff member of the Supplier; and
- C. by sending out a mailed response within 2 Working Days where the Complaint is sent by post and a response by post is requested;

For the purposes of this chapter, acknowledgement of a Complaint must include the allocation and provision of a unique reference number or such other means as will ensure the Supplier's ability to subsequently identify the Complaint and its subject matter. At the time of the acknowledgement of a Complaint, the Supplier must provide the Consumer with indicative timeframes for the Resolution of the Complaint;

- (ii) where possible, seeking to Resolve a Complaint on first contact;
- (iii) implementing a process for the identification and management of Urgent Complaints;

- (iv) requiring the appropriate Resolution of Complaints including:
 - A. ensuring relevant staff are aware of the potential remedies available to Resolve a Complaint;
 - B. taking a consistent approach to resolving known issues and particular types of Complaints;
 - C. tailoring any remedy offered to address the root cause of the Complaint and to address the individual circumstances of the Consumer;
 - D. where the Complaints are indicative of a wider problem or issue, addressing the root cause of the problem or issue; and
 - E. resolving Billing errors in current Bills;
- (v) suspending all Credit Management action for specified disputed amounts that are the subject of an open Complaint while the Complaint is being handled internally by the Supplier and for 7 Working Days after the Consumer is advised of the outcome of their Complaint;
- (vi) delaying commencement of any legal proceedings while a Complaint is being handled internally and for 7 Working Days after Consumer is advised of the outcome of their Complaint;
- (vii) finalising Complaints within 15 Working Days from the date the Complaint is received in accordance with clause 8.2.1 (a) or as soon as practicable in all the circumstances;
- (viii) for Urgent Complaints, providing written confirmation of the envisaged Resolution within 2 Working Days and setting into motion the Resolution process within 2 Working Days after the date the Complaint is received;
- (ix) where a Supplier does not believe the Complaint can be Resolved in 15 Working Days (or within 2 Working Days for Urgent Complaints) the Supplier must, advise the Customer as soon as practicable after receiving the Complaint
 - A. the reasons for the delay
 - B. providing a revised timeframe for finalisation; and

- C. if the anticipated delay is 10 Working Days or more and is not the result of a declared mass service disruption, advising the Consumer of their options for external dispute resolution including the TIO;
 - (x) advising Consumers of any delays to promised timeframes;
 - (xi) providing a means for the Consumer to monitor the Complaint's progress;
 - (xii) advising Consumers in plain language of the outcome of their Complaint, as soon as practicable after finalisation of the Complaint, and providing a written confirmation should the Consumer request this;
 - (xiii) confirming the Consumer understands the outcome of their Complaint;
 - (xiv) completing all necessary actions to deliver the outcome promised for the Resolution of a Complaint within 10 Working Days of the Consumer's acceptance of that outcome unless
 - A. otherwise agreed with the Consumer; or
 - B. the actions are contingent on actions by the Consumer that have not been completed; and
 - (xv) only closing a Complaint with the consent of the Consumer or if clauses 8.2.1.(c),(d) or (e) below have been complied with.
- (b) **Respond to dissatisfaction with timeframes:** If a Consumer tells the Supplier that they are dissatisfied with the timeframes that apply to the management of a Complaint or seek to have a matter treated as urgent, the Supplier must tell the Consumer about the Supplier's internal prioritisation and internal escalation process. If, after internal prioritisation and internal escalation the Consumer remains dissatisfied, the Supplier must tell the Consumer of the options for external dispute resolution.
- (c) **Respond to dissatisfaction with progress or outcome:** If a Consumer tells the Supplier that they are dissatisfied with the progress or outcome of a Complaint or asks about their options to pursue a Complaint further, the Supplier must tell them about:
- (i) the Supplier's internal escalation process; and
 - (ii) the options for external dispute resolution including the TIO.

- (d) **Address frivolous Complaints:** If, after careful consideration and appropriate internal escalation, a Supplier concludes that a Complaint is frivolous or vexatious and that it can do nothing more to assist the Consumer or that, in view of the Consumer's behaviour, it chooses not to deal with the Customer any further, it must inform the Consumer in writing of the reasons and tell them about the options for external dispute resolution including the TIO. A Supplier is not then required to accept further Complaints from that Consumer on the same issue other than in the course of an external dispute resolution process.
- (e) **Attempt to contact Consumers:** If a Supplier is unable to contact a Consumer to Resolve their Complaint, or to advise them of the outcome of their Complaint, the Supplier must write to the Consumer at their last known address, state that they were unable to contact the Consumer, provide details of those contact attempts and provide an invitation to contact the Supplier to Resolve the Complaint within a specific timeframe of no less than 10 Working Days.

8.3 Complaint analysis

Suppliers must implement processes and undertake analysis of their Complaint information to identify and prevent the recurrence of Complaints arising from systemic issues.

8.3.1 A Supplier must take the following actions to enable this outcome:

- (a) **Identification of problems:** Suppliers must implement processes, procedures or systems to identify and resolve recurring problems and systemic issues. Suppliers must:
 - (i) classify and analyse Complaints at least every 3 months to identify recurring problems and issues including areas of non-compliance with this Code;
 - (ii) address emerging areas requiring attention as soon as practicable; and
 - (iii) monitor and record progress to address areas requiring attention.
- (b) **Notifying management:** Suppliers must ensure there is a process for the rapid and effective management of, and notification to appropriately senior management of any significant Complaints or Complaint issues.

8.4 Resourcing of Complaint handling processes

Suppliers must ensure that their Complaint handling processes are sufficiently resourced to ensure that they will meet their obligations under this Code.

- 8.4.1 A Supplier must take the following actions to enable this outcome:
- (a) **Resourcing:** resource the Complaint handling process to ensure that all Complaints are dealt with in accordance with the requirements of this chapter and this Code and any additional requirements of its Complaint handling process;
 - (b) **Monitor resourcing:** monitor its performance under this clause on a quarterly basis to ensure appropriate resources are in place and take prompt action where this is not the case;
 - (c) **Train and authorise staff:** provide staff with specific Complaints management responsibilities with:
 - (i) training in Complaints management including the Supplier's Complaints handling process; and
 - (ii) the authority to Resolve Complaints;
 - (d) **Skilled staff:** ensure staff with Complaints management responsibilities are trained and supervised, and have the necessary interpersonal and communication skills, to ensure that the Supplier's obligations under this chapter are met;
 - (e) **Avoid conflicts of interest:** ensure that the Complaint is not investigated by staff with a direct involvement in the circumstances of the Complaint.

8.5 Record Keeping

Suppliers must keep records of Complaints which:

- (a) include identification of the Consumer making the Complaint, the nature of the Complaint, the steps taken to address the Complaint and the Resolution, if any of the Complaint; and
- (b) enable the Supplier to manage, monitor, analyse, record and report on Complaints.

8.5.1 A Supplier must take the following actions to enable this outcome:

- (a) **Systematic record keeping:** make and keep systematic records of Complaints including:

- (i) a unique reference number or such other means as will ensure the Supplier's ability to subsequently identify the Complaint and its subject matter;
 - (ii) the issues raised as part of the Complaint;
 - (iii) the requested Resolution;
 - (iv) the due date for a response;
 - (v) the results of any investigation;
 - (vi) the outcome of the Complaint and the date it is communicated to the Consumer;
 - (vii) the Supplier's reasons for reaching its decision;
 - (viii) the commitments (if any) made to a Consumer to Resolve the Complaint;
 - (ix) the Consumer's response to the outcome of the Complaint and whether they require the outcome in writing;
 - (x) the implementation of any required actions;
 - (xi) the underlying cause of the Complaint; and
 - (x) copies of any correspondence sent to the Consumer.
- (b) **Track progress:** be able to track the progress of a Complaint;
- (c) **Monitor commitments:** monitor the commitments made to Resolve a Complaint and to ensure they are actioned within 10 Working Days of advising the Consumer of the outcome of their Complaint unless otherwise agreed with the Consumer;
- (d) **Enable reporting:** be able to report compliance with the Complaints management timeframes set out in clause 8.2.1 above;
- (e) **Record retention:** without limiting the Supplier's obligations at law, including under the Privacy Act, retain this information for at least two years;
- (f) **Maintain confidentiality:** maintain the confidentiality of this information.

9 CODE COMPLIANCE AND MONITORING

Summary

This chapter sets out the compliance and monitoring arrangements that apply to this Code and requires Suppliers to implement a Code Compliance Framework which will:

- *encourage, monitor and enhance industry compliance with this Code;*
- *improve the levels of Customer service and consumer protection enjoyed by users of Telecommunications Products in Australia;*
- *improve self-regulation by Suppliers;*
- *enhance transparency regarding compliance with this Code; and*
- *provide Consumer confidence in the self-regulatory regime of which this Code forms a part and in the telecommunications industry's compliance with the Code.*

This chapter explains the actions that Suppliers are required to take under their Code Compliance Framework in order to comply with the Code. The role of the independent body, Communications Compliance (CC), which has been created to monitor Code compliance by Suppliers, is described in Appendix 1 to this Code.

Overview

The Code Compliance Framework comprises a number of elements as set out in this chapter, including obligations of Suppliers to:

- *promote awareness of the Code to its Customers and to communicate the requirements of the Code to its staff;*
- *have processes and systems in place to ensure compliance with the requirements of this Code;*
- *prepare a Customer Information Compliance Statement and a Compliance Plan;*
- *provide certain statements annually to the CC;*
- *in certain circumstances, provide to the CC a Compliance Achievement Plan;*
- *respond to Compliance Monitoring Requests from the CC and, if necessary, to provide an Action Plan in relation to those Compliance Monitoring Requests;*
- *comply with directions given by the CC from time to time; and*
- *provide Metrics to the CC.*

General Rules

The general rules in chapter 3 apply in addition to the Rules in this chapter.

Rules

9.1 Code Compliance Framework

Subject to clause 1.4 of the Code, Suppliers must implement and comply with the obligations applicable to them contained in the Code Compliance Framework set out in this chapter and in Appendix 2 to this Code.

9.2 Promoting Code awareness

Suppliers must promote the awareness of the Code to their Customers and communicate the requirements of the Code to their staff.

9.2.1 A Supplier must take the following actions to enable this outcome:

- (a) **Code awareness for Customers:** promote the Code to its Customers to ensure its Customers and the broader community are aware of the consumer safeguards, obligations and benefits included in the Code;
- (b) **Code awareness for staff:** communicate the requirements of the Code to its staff and ensure that relevant staff are adequately trained regarding the provisions of the Code;

9.3 Code compliance processes

Suppliers must have processes and systems in place to ensure compliance with the requirements of this Code, and must prepare a Customer Information Compliance Statement and a Compliance Plan.

9.3.1 Suppliers must take the following actions to enable this outcome:

- (a) **Compliance processes:** have processes and systems in place to ensure compliance with the requirements of this Code;
- (b) **Customer Information Compliance Statement:** provide a Customer Information Compliance Statement to the CC annually, the first such Customer Information Compliance Statement to be provided to the CC within 7 months of the date of registration of this Code;
- (c) **Compliance Plan:** prepare and maintain a documented Compliance Plan which outlines the initiatives of the Supplier supporting compliance with the provisions of the Code and which is prepared in a manner consistent with the principles and guidance provided in the *Australian Standard on Compliance Programs AS 3806 – 2006*;

9.4 Code compliance statements

Suppliers must provide to the CC prescribed statements regarding Code compliance, which statements are to be prepared and provided to CC depending on the nature of the Supplier, in the manner and times set out in this clause 9.4.

9.4.1 A Supplier must take the following actions to enable this outcome:

- (a) **Compliance Attestation:** unless it is a Small Supplier, a Medium Supplier or a New Entrant Supplier, provide an Initial Compliance Attestation to the CC which has been endorsed by the chief executive officer or a senior manager of the Supplier, within 7 months of Code registration, and then provide a Compliance Attestation annually thereafter;
- (b) **Statement of Independent Assessment:** unless it is a Small Supplier, a Medium Supplier or a New Entrant Supplier, provide a Statement of Independent Assessment to the CC at the same time as providing the Initial Compliance Attestation pursuant to clause 9.4.1 (a), which Statement of Independent Assessment must state that an External Qualified Assessor has determined that the Supplier's documented Compliance Plan meets the requirements of the *Australian Standard on Compliance Programs AS 3806 – 2006*;

A Supplier must provide a further Statement of Independent Assessment where any Material Changes are made by the Supplier. These further Statements of Independent Assessment must be provided to the CC at the same time as the Supplier provides its annual Compliance Attestation to the CC;

- (c) **Small Supplier self-attestation:** if it is a Small Supplier, provide a Compliance Attestation to the CC which is signed by the chief executive officer or the board of directors of the Supplier, with the initial such statement to be provided within 7 months of Code registration and then annually thereafter;
- (d) **Medium Supplier self-attestation:** if it is a Medium Supplier, provide a Compliance Attestation to the CC, which is signed by the chief executive officer or the board of directors of the Supplier, with the initial such statement to be provided within 7 months of Code registration and then annually thereafter;
- (e) **New Entrant Supplier self-attestation:** if it is a New Entrant Supplier, initially provide a Compliance Attestation to the CC, which is signed by the chief executive officer or the board of directors of the Supplier, within 7 months of Code registration, and thereafter annually report in accordance with the requirements of clauses 9.4.1 (b), (c) or (d), depending on the category of Supplier into which it fits;
- (f) **Contents of Compliance Attestation:** if it is required to be provided by this clause 9.4, ensure that the Initial Compliance Attestation and each Compliance Attestation prepared annually thereafter includes:
 - (i) confirmation that a review has been undertaken by the Supplier regarding its compliance with the Code;

- (ii) confirmation of the Supplier's compliance with the Code;
- (iii) assertion that the Supplier's Compliance Plan has been prepared in a manner consistent with the principles and guidance provided in the Australian Standard on Compliance Programs AS 3806 – 2006.
- (iv) other than in relation to an Initial Compliance Attestation, a report on the Supplier's compliance with its Compliance Plan during the preceding year, including details of any significant changes to the Supplier's business structure and operations that are relevant, and any feedback to the CC regarding suggested improvements to the Code Compliance Framework and/or the compliance requirements of the Code;
- (v) a link to the website of the Supplier where Consumers may obtain information regarding that Supplier's Spend Management Tools;
- (vi) a report on Spend Management Tools that have been released by the Supplier to the market in the immediately preceding 12 months; and
- (vii) information regarding programs and actions undertaken by that Supplier during the immediately preceding 12 months to promote awareness among the Supplier's customer base of both the existence of the Supplier's Spend Management Tools and how to access and use them effectively.

9.5 Compliance Achievement Plans

If a Supplier is unable to submit to the CC a Customer Information Compliance Statement, a Compliance Attestation or a Statement of Independent Assessment (if required) at the times required by this chapter 9, the Supplier must submit to the CC a Compliance Achievement Plan detailing how and when actions will be taken to comply with the relevant Code requirement.

9.5.1 A Supplier must take the following actions to enable this outcome:

- (a) **Inability to provide statements to the CC:** if a Supplier cannot provide the Customer Information Compliance Statement, Compliance Attestation or Statement of Independent Assessment (if required) to the CC in the timeframe required in clause 9.4, provide a Compliance Achievement Plan to the CC (with contents and in a form acceptable to the CC) identifying the Code provision with which the Supplier does not comply and detailing the actions to be taken to become compliant and the expected timeframe for completion of those actions;

- (b) **Monitoring and Reporting on Compliance Achievement Plan:** if the Supplier provides a Compliance Achievement Plan to the CC pursuant to clause 9.5.1 (a), monitor progress and report regularly on its progress under the Compliance Achievement Plan to the CC.

9.6 Compliance Monitoring Requests

Suppliers must respond to a Compliance Monitoring Request received by them from the CC and provide an Action Plan if required by clause 9.6.1.

9.6.1 A Supplier must take the following actions to enable this outcome:

- (a) **Compliance Monitoring Requests:** respond to Compliance Monitoring Requests from the CC by the date specified by the CC for such a response;
- (b) **Action Plan as a result of a Compliance Monitoring Request:** if a Supplier's response to a Compliance Monitoring Request indicates that the Supplier cannot comply with all or part of the relevant aspects of the Code that are the subject of that Compliance Monitoring Request, provide an Action Plan to the CC (within the time required by, and with contents and in a form acceptable to, the CC) detailing the actions to be taken by the Supplier to address any compliance failure or other issues identified through the Compliance Monitoring Request, including the expected time for completion of those actions. The Supplier must include in the Action Plan, if appropriate, details of planned remedial measures; and
- (c) **Monitoring and Reporting on Action Plan:** if the Supplier provides an Action Plan to the CC, monitor progress and report regularly on its progress under the Action Plan to the CC.

9.7 Suppliers obligations regarding the CC

Suppliers must do all things reasonably necessary to assist the CC to perform its functions as set out in Appendix 1 to the Code and in CC's operating plan from time to time.

9.7.1 A Supplier must take the following actions to enable this outcome:

- (a) **Comply with directions:** comply in a timely manner with all directions given by CC to the Supplier which are anticipated by this Code or which may be given pursuant to the operating plan of the CC; and
- (b) **Metrics:** provide to the CC annually, or more frequently if required by the CC, a report in a format required by the CC reporting on the Metrics which relate to that Supplier.

GUIDANCE

Brochure and Compliance Tools

- *Communications Alliance, in consultation with Consumer representatives, will prepare a plain language brochure for Consumers, explaining the key Consumer safeguards provided by the Code. While not an enforceable obligation of this Code, Suppliers should, as and when requested by Communications Alliance, contribute to the development of that brochure and make it available to Consumers through their stores, dealers, websites and other appropriate channels accessible by Consumers*
- *Communications Alliance will work with the CC to make tools available to Suppliers to assist them in meeting their obligations under the Code Compliance Framework.*
- *Suppliers should assist Communications Alliance to evaluate the benefits of implementing a wider awareness campaign to ensure the broader community understands the Code and what it means.*

APPENDIX 1

Role and Obligations of Communications Compliance

A Role

A1 The CC will:

A.1.1 subject to its constitution, be governed by a 3 member board consisting of two directors who will nominate an Executive Director. The two directors are the chair from time to time of Communications Alliance and a person nominated by Consumer representatives. The day to day functions of the CC will be coordinated by a committee comprising the Executive Director, 2 representatives nominated by the telecommunications industry through a nomination process conducted by Communications Alliance, and 2 representatives nominated by Consumers through a nomination process to be conducted by a consumer organisation. That committee will report to the board of the CC;

A.1.2 be primarily responsible for overseeing the conduct of the Code Compliance Framework;

A.1.3 develop its own website on which to publish useful information for Consumers and annual statements provided by Suppliers pursuant to Chapter 9 of the Code. This website will:

- (a) be stand-alone and independent (i.e. not part of another organisation's website);
- (b) comply with W3C web accessibility standards;
- (c) have an easy-to-remember URL;
- (d) be regularly updated;
- (e) contain content which clearly explains the purpose of the website and the telecommunications regulatory and self-regulatory framework; and
- (f) contain links to the websites of:
 - (i) ACMA;
 - (ii) ACCC;
 - (iii) Communications Alliance;
 - (iv) TIO; and
 - (v) ACCAN;

A.1.4 establish memoranda of understanding with the key stakeholders – the TIO, ACMA and ACCC – that will be designed to ensure efficient and effective inter-working with those stakeholders to avoid duplication of effort, ensure appropriate information flows and expedite coordinated actions.

- A.1.5** without limiting paragraph A.1.4, establish a memorandum of understanding with the TIO which, without limitation will enable the CC to obtain monthly or quarterly reporting from the TIO regarding TIO complaint statistics. This reporting will not necessarily be limited to published TIO data. It will be sought in a format that will best assist the CC in its compliance monitoring responsibilities and help identify issues which might need to be the subject of Compliance Monitoring Requests to Suppliers;
- A.1.6** without limiting paragraph A.1.4, establish a memorandum of understanding with the ACMA which, without limitation, deals with the process for making referrals to the ACMA, for information sharing and for other operational matters;
- A.1.7** without limiting paragraph A.1.4, establish a memorandum of understanding with the ACCC which, without limitation, deals with the process for making referrals to the ACCC, for information sharing and for other operational matters;
- A.1.8** meet with Communications Alliance and endeavour to agree the scope of the Metrics within 6 months of the date of this Code;
- A.1.9** communicate to Suppliers regarding their obligations to provide the following:
- (a) a Customer Information Compliance Statement;
 - (b) if applicable an Initial Compliance Attestations and annual Compliance Attestations and, if so required by chapter 9 of the Code, a Statement of Independent Assessment;
 - (c) responses to Compliance Monitoring Requests;
 - (d) Compliance Achievement Plan, and regular reports in relation to Compliance Achievement Plans as required by Chapter 9 of the Code;
 - (e) Action Plans, and regular reports in relation to Action Plans as required by Chapter 9 of the Code; and
 - (f) a report in relation to the Metrics.
- The content of these requests will be determined by the CC and be based on information provided by the TIO, the ACMA and the CC's own knowledge of other external factors;
- A.1.10** publish on its website a list of the Suppliers which have submitted Compliance Attestations and Compliance Achievement Plans;
- A.1.11** publish on its website the information provided by Suppliers in their Customer Information Compliance Statements and Compliance Attestations;
- A.1.12** publish on its website a list of the Suppliers which have not, on or after that date which is 12 months after Code registration, submitted a Compliance Attestation or, if previously required by the CC, a Compliance Achievement Plan or Action Plan;

- A.1.13** publish on its website the URL details of Suppliers who have submitted a Compliance Attestation, or a Compliance Achievement Plan as the case may be;
- A.1.14** publish on its website guidance notes and case studies which may be of use to Suppliers in their compliance with the Code;
- A.1.15** submit reports annually (or more regularly as may be agreed) to the ACMA, confirming which Suppliers have submitted (as required in chapter 9 of the Code) Customer Information Compliance Statements, Compliance Attestations and Statements of Independent Assessment;
- A.1.16** work with Communications Alliance to make tools available to Suppliers to assist Suppliers in meeting their obligations under the Code Compliance Framework; and
- A.1.17** investigate the potential to create compliance incentives to encourage positive moves by Suppliers toward achieving compliance with all of the requirements of the Code.

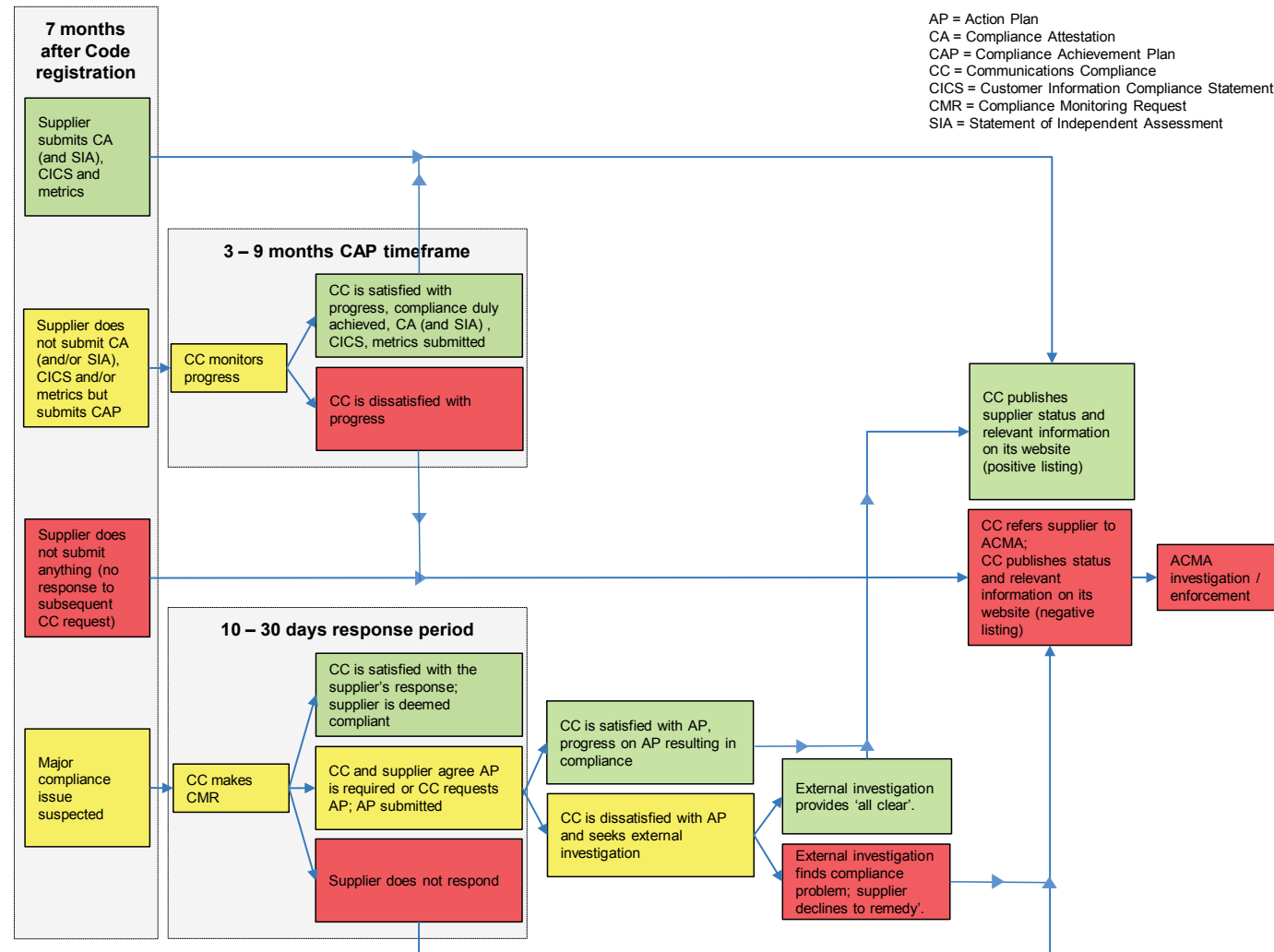
B Obligations

B1 Code enforcement

- B.1.1** The obligations on the CC will be outlined more fully in its constitutional documents. In exercising its discretion on such issues as whether to refer a Supplier to the ACMA for investigation or enforcement, the CC will take account of factors including but not limited to:
 - the seriousness of any compliance breach;
 - the degree of Consumer detriment caused by the non-compliance; and
 - the extent to which the breach can be speedily rectified.
- B.1.2** If a Supplier cannot provide the Customer Information Compliance Statement, Compliance Attestation or Statement of Independent Assessment (if required) to the CC in the required timeframe, the CC may require the Supplier to provide a Compliance Achievement Plan and subsequently make requests of the Supplier so that the CC may monitor progress of the Supplier against the Compliance Achievement Plan. If the CC is not satisfied with the progress and completion of a Supplier's Compliance Achievement Plan, the CC may report the Supplier to the ACMA for further investigation by the ACMA.
- B.1.3** If a Supplier's response to a Compliance Monitoring Request indicates that the Supplier cannot comply with all or part of the relevant aspects of the Code that are the subject of that Compliance Monitoring Request, the CC may require the Supplier to provide an Action Plan and subsequently make requests of the Supplier so that the CC may monitor progress of the Supplier against the Action Plan. If the CC is not satisfied with the progress and completion of a Supplier's Action Plan, the CC may report the Supplier to the ACMA for further investigation by the ACMA.
- B.1.4** Notwithstanding paragraphs B.1.1 and B.1.2, but subject to paragraph B.1.4, the CC may report a Supplier to the ACMA for further investigation by the ACMA in relation to any matter.

- B.1.5** The CC will not report a Supplier to the ACMA without prior written warnings being given to the Supplier and the Supplier being afforded an opportunity to provide the required compliance information to the CC.
- B.1.6** The CC may, after consultation with a Supplier, decide to undertake a targeted investigation of the Supplier at the Supplier's expense (including using external consultants), following receipt of information in relation to an alleged non compliance with the Code by the Supplier. The outcome of that investigation, or the Supplier's refusal to cooperate with the CC in relation to that proposed or actual investigation, may result in a referral of a Supplier to the ACMA.
- B.1.7** Code enforcement will continue to be the prime responsibility of the ACMA. The CC will assist the ACMA in this role by sharing information about non compliant Suppliers with the ACMA.

APPENDIX 2 FLOWCHART



PARTICIPANTS

The Steering Group responsible for the revisions made to this Code consisted of the following organisations and their representatives:

Organisation	Membership	Representative
	Chair (Non-voting)	Fay Holthuyzen
Australian Communications Consumer Action Network	Voting	Teresa Corbin
Australian Communications and Media Authority	Non-voting	Kath Silleri
Australian Competition & Consumer Commission	Non-voting	Paul Zawa
Communications Alliance	Non-voting	John Stanton
Consumer Law Centre	Voting	Michael Fraser
Department of Broadband, Communications and the Digital Economy	Observer	Keith Besgrove
Primus	Voting	John Horan
Telstra	Voting	Jane van Beelen

This Steering Group was chaired by Fay Holthuyzen. Christiane Gillespie-Jones of Communications Alliance provided project management support.

The Working Committees responsible for the revisions made to this Code consisted of the following organisations and their representatives (all non-voting):

Organisation	Representative
Australian Communications Consumer Action Network	Elissa Freeman
Australian Communications Consumer Action Network	Jonathan Gadir
Australian Council of Social Service	Chris Dodds
Communications Law Centre	Scott Reid Barnes
Community Telco	Alex Trantor
Financial Counsellors Association QLD	David Lawson

Independent consultant	Gordon Renouf
Internode	Eric Erickson
Internet Society Australia	Narelle Clark
Legal Aid QLD	Loretta Kreet
Legal Aid QLD	Catherine Uhr
MacArthur Community Legal Centre	Chris Joyce
MyNetFone	Andy Fung
Optus	Ana Tabacman
Optus	Karl Jepson
Optus	Tim Walters
Primus	Emily Booth
Telstra	Trevor Hill
Telstra	Jenny Crichton
Telstra	David Ackland
Telstra	Sally Haydon
Telstra	Anne Howells
Telstra	Mark McGraw
Vodafone Hutchison Australia	Alexander R. Osborne
Women with Disabilities Australia	Sue Salthouse

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.



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