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To: Communications Alliance

Level 12, 75 Miller Street
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By submission: <https://www.commsalliance.com.au/Documents/Documents-under-Review/submit-comments>

RE: Telecommunications Consumer Protections Code Review (Stage 1) Discussion Paper

INTRODUCTION

Thank you for the opportunity to express the Internet Association of Australia's (**IAA**) perspective on the Telecommunications Consumer Protections Code Review (Stage 1) Discussion Paper (**Discussion Paper**).

IAA is a member-based association representing Australia's Internet community. Our membership is largely comprised of small to medium sized Internet service providers (**ISPs**), many of whom also provide classical telecommunications services as carriage service providers (**CSPs**) and are subject to the Telecommunications Consumer Protections Code (**TCP Code**). Our response is primarily in representation of these members as well as for the public good of the Internet and telecommunications industry more broadly.

In general, IAA and our members are committed to ensuring the protection of consumers, particularly those experiencing vulnerability. To that effect, we understand the value in having the TCP Code. However, the cost of compliance disproportionately affects smaller CSPs. As such there are also concerns within our members that the Review will result in more onerous compliance metrics that will not effectively achieve its purpose, and instead apply greater compliance burdens. It is crucial that the Review ensures that amendments to the TCP Code are only made where necessary, appropriate, proportionate and where it would be effective to make any such changes.

OUR RESPONSE

RESPONSE TO DISCUSSION PAPER QUESTIONS

Question 5: Removal of duplicative sections of the TCP Code

We highly support the removal of duplicative sections of the TCP Code, and in particular, concerned with ensuring that this Review does not result in the introduction of any new

duplicative obligations in the TCP Code. As CSPs are subject to a wide number of legislative and regulatory obligations, it is paramount that the Review holds efficiency as one of the core principles driving the Review to assist CSPs with compliance as opposed to creating any unnecessary burdens.

For example, any changes to the TCP Code with respect to complaint handling should be made in consideration of the *Telecommunications (Consumer Complaints Handling) Industry Standard 2018*.

Similarly, we understand the ACMA's Statement of Expectations (**SOE**) which the Review intends to address, makes a number of recommendations with regards to CSPs' dealing with vulnerable customers. We note that this is already dealt with in clause 3.4 of the TCP Code, and clearly stated as a commitment under the Introductory Statement of the TCP Code.

Furthermore, with respect to recommendations in the SOE about CSPs dealing with customers affected by domestic and family violence, we note that there is also already the *G660:2023 Assisting Customers Experiencing Domestic and Family Violence (G660 Guidelines)* provided to CSPs on this area which was recently revised and updated to ensure it is fit for purpose. If considered necessary to include specific provisions on protections for affected customers, we recommend that it refers CSPs to the G660 Guidelines and recommends the implementation measures as necessary and appropriate for the business.

IAA and our members understand and recognise the need to protect vulnerable customers and acknowledge the particular challenges that vulnerable customers face. However, we are also concerned that introducing specific provisions that mandate how CSPs deal with vulnerable customers will give rise to added privacy concerns which can also pose more risks for those customers.

Making record of a customer's vulnerability status may also involve storage of certain sensitive personal information. This gives rise to even greater compliance obligations for CSPs with respect to the *Privacy Act* and would place vulnerable customers at even greater risk in the unfortunate event of a data breach incident, should one occur. As such, as far as practicable and appropriate, we recommend that a general baseline is established that ensures customers sufficient protection, regardless of their vulnerability status. While we understand that this will not be possible in all areas, there should be greater work done to assess the best method in affording vulnerable customers best practice, which includes utmost respect for their privacy which can have a disproportionate effect on vulnerable customers, as well as the implications on compliance obligations for CSPs.

With the recent privacy and data breach incidents in the sector, we recommend that this Review is used as an opportunity to work with government, regulators and other stakeholders to ensure that any provisions in the TCP Code regarding the retention of any personal information of customers, is appropriate and only provisioned where necessary. In addition, we recommend clarification of paragraph 3.7.2(c) of the TCP. We understand clause 3.7 is intended to apply to CSPs not subject to the *Privacy Act 1988 (Privacy Act)*. Furthermore, the clause does not otherwise mandate those CSPs comply with the Privacy Act in its entirety. As such, the provision that staff must be made aware that they will face disciplinary action for failing to comply with the Privacy Act when the legislation does not apply to the business does not seem appropriate.

Question 9: CommCom attestation process and other compliance activities

Our members have noted the CommCom attestation process to be a high regulatory burden as a massive undertaking that is very time consuming, particularly for smaller CSPs who have limited resources. We strongly recommend that any reforms made to the attestation and other compliance activities, takes into consideration of the disproportionate effects that such processes have on smaller CSPs.

There are also concerns that the cost of compliance is not appropriately balanced with the benefits to industry and/or consumers. This is primarily due to the lack of further reporting or activities undertaken by CommCom that demonstrates whether this onerous burden is having a positive impact, or identifying where industry needs more work.

This lack of output has raised concerns that the attestation process may become a high-cost regulatory box ticking exercise rather than achieving any improvements in the industry.

Question 10: Other compliance, enforcement and reporting arrangements

In light of the concerns raised in response to Question 9, any amendments made to the TCP Code that expands compliance obligations (not CommCom related) for CSPs should only be made if it is necessary, and will actually achieve net benefits.

ADDITIONAL COMMENTS AND SUGGESTIONS

In general, we also recommend that alongside consideration of the SOE, the Review takes into account other reports including the Communications Alliance's Complaints-in-Context Report released 23 May 2023, and the recent Complaints Report from the Telecommunications Industry Ombudsman (**TIO**) for Q3 of the FY2022-23. Both reports highlight significant improvements in the industry with regards to complaints received by the TIO.

We also note that the issues raised in page 4 of the SOE predominantly relate to reports made prior to 2022. We note that a variation was made to the TCP Code in 2022, and furthermore, more recent reports would provide a better understanding of current shortfalls in the sector.

In addition, any reports about customers experiencing difficulties with the cost of telecommunications services and/or struggling with telecommunications debt should be considered in a holistic approach and take into account the economic recession that has raised the cost of living overall.

CONCLUSION

Once again, IAA appreciates the opportunity to contribute to the Telecommunications Consumer Protections Code Review (Stage 1) Discussion Paper. We reiterate our genuine commitment to ensuring protection of consumers to ensure industry best practices and maintain a healthy level of trust. In particular, we acknowledge the specific challenges that vulnerable customers may face. However, it is also necessary to ensure that the TCP Code fulfils its purpose and the provisions mandated produce outcomes, and benefit the industry and consumers, as opposed to establishing unnecessarily burdensome obligations without clear results. To this end, we are sincerely committed to working with Communications Alliance, ACMA, TIO, industry, consumer advocacy representatives and other stakeholders to ensure an effective, practical and appropriate framework that benefits both industry and consumers.

ABOUT THE INTERNET ASSOCIATION OF AUSTRALIA

The Internet Association of Australia (IAA) is a member-based association representing the Internet community. Founded in 1995, as the Western Australian Internet Association (WAIA), the Association changed its name in early 2016 to better reflect our national membership and growth.

Our members comprise industry professionals, corporations, and affiliate organisations. IAA provides a range of services and resources for members and supports the development of the Internet industry both within Australia and internationally. Providing technical services as well as social and professional development events, IAA aims to provide services and resources that our members need.

IX-Australia is a service provided by the Internet Association of Australia to Corporate and Affiliate members. It is the longest running carrier neutral Internet Exchange in Australia. Spanning six states and territories, IAA operates over 30 points of presence and operates the New Zealand Internet Exchange on behalf of NZIX Inc in New Zealand.

IAA is also a licenced telecommunications carrier, and operates on a not-for-profit basis.

Yours faithfully,

Narelle Clark
Chief Executive Officer
Internet Association of Australia