

Memorandum of Understanding
Between
Communications Compliance Ltd
And
Australian Competition and Consumer Commission

Part A: Introduction

Parties to the MOU

The parties to this Memorandum of Understanding (MOU) are:

- the Australian Competition and Consumer Commission (ACCC)
- Communications Compliance Ltd (ACN 159 298 638) (CommCom).

(together, the Parties).

CommCom:

CommCom is a body established by the telecommunications industry to monitor compliance with the Telecommunications Consumer Protections Code C628:2012 (the TCP Code) by telecommunications Suppliers in accordance with the Code Compliance Framework (the CC Framework) set out in Chapter 9 of the TCP Code.

CommCom's role also includes the provision of guidance related to TCP Code compliance.

The ACCC:

The ACCC's primary responsibility is to ensure that individuals and businesses comply with Australian competition, fair trading, and consumer protection laws. In particular under the *Competition and Consumer Act 2010* (CCA), it has a number of functions in relation to the telecommunications industry. These functions include administering the telecommunications access regime under Part XIC and enforcing anti-competitive behaviour provisions under Part IV and Part XIB. The ACCC also protects the interests and safety of consumers through the enforcement of the Australian Consumer Law, such as by addressing misleading behaviour, removing unsafe goods, and tackling unconscionable dealing.

Purpose and principles

The purpose of this MOU is to ensure effective cooperation between CommCom and the ACCC to help provide better outcomes for consumers in the telecommunications industry. The MOU will implement the obligations in clauses A.1.4 and A.1.7 of Appendix 1 to the TCP Code which require CommCom to establish memoranda of understanding with key stakeholders to ensure efficient and effective inter-working with those stakeholders.

In particular, this MOU outlines the processes for the making of referrals by CommCom to the ACCC and for information sharing and liaison between CommCom and the ACCC.

This MOU does not limit or alter any consultation requirements that are specified in legislation or regulation.

This MOU should be read in conjunction with the relevant provisions of the *Telecommunications Act 1997* (the Telco Act), the *Telecommunications (Consumer Protection and Service Standards) Act 1999* (the TCPSS Act) and the TCP Code.

This MOU is not intended to create legally binding obligations.

Part B: Operational Provisions

1. Assistance and notification

- 1.1. CommCom will provide a report to the ACCC by 1 September each calendar year on industry-wide systemic compliance issues and emerging issues identified by CommCom in the previous twelve months. For the avoidance of doubt the ACCC will accept the same report as referred to in clause 15 of the Memorandum of Understanding between the Australian Communications and Media Authority and Communications Compliance Ltd as signed in February 2013.
- 1.2. Recognising that the ACCC has statutory and regulatory functions that mean it will not always be appropriate to discuss the details of its activities, it will otherwise use reasonable endeavours to advise CommCom should it, as part of its compliance and enforcement activities, become aware of any significant developments that may impact on the operation or effectiveness of the TCP Code.
- 1.3. CommCom, subject to any contrary legal obligation, will use reasonable endeavours to notify the ACCC of potential serious and/or systemic contraventions of the CCA (whether by individual retail service providers or across the industry) as soon as it becomes aware of those contraventions in the course of monitoring compliance with the TCP Code.
- 1.4. CommCom, subject to any contrary legal obligation, will notify the ACCC of suppliers it has referred to the ACMA for serious non-compliance of the TCP Code.

2. Communication

- 2.1. Officers of the Parties will meet at least twice yearly to discuss industry-wide systemic compliance issues identified by each Party, and measures to address those issues during the life of the TCP Code, with a view to improving the TCP Code in future. The Parties will also discuss proposals for public and industry education activities in order to avoid duplication of effort. Where required the Parties will also discuss possible issues relating to the interpretation of the obligations under the TCP Code.
- 2.2. Nothing in this MOU prevents the provision of information and advice to the appropriate Minister under or in relation to the CCA, the Telco Act or the TCPSS Act.

3. Duration of the MOU

- 3.1. This MOU will have a term of five years from the date of commencement, unless:
 - (a) terminated by one or both Parties in accordance with paragraph 4.
 - (b) the TCP Code is replaced by an equivalent industry code registered by the Australian Communications and Media Authority (ACMA) before the end

Schedule 1

Party Contact Details

The CommCom contact point for this MOU is:

Contact Person	Christiane Gillespie-Jones, Executive Director (or such other person as nominated to ACCC by CommCom from time to time)
Address	Level 12, 75 Miller St, North Sydney NSW 2060
Telephone	+61 2 9906 5123
E-mail	christianegillespiejones@commcom.com.au

The ACCC contact point for this MOU is:

Contact Person	Damien Kelly, Director, Mobiles & Consumer Engagement Section (or such other person as nominated to CommCom by ACCC from time to time)
Address	Level 20, 175 Pitt Street, Sydney NSW 2000
Telephone	+61 2 9230 3820
E-mail	damien.kelly@accc.gov.au

of the term or substantial parts of the TCP Code are replaced with other instruments of regulation, for example, a standard.

4. Termination and Amendment of the MOU

4.1. Any term of this MOU may be amended or waived by the Parties' mutual consent in writing.

4.2. Either party may terminate the MOU by giving thirty days (30) written notice to the other party.

5. Publication

5.1. Both Parties will include a link to the other Party's homepage on their respective websites and publish the MOU on their respective websites.

10 January 2014

Dated:



Rod Sims

Chairperson

Australian Competition and Consumer Commission

Dated: 23rd January 2014



Deirdre Mason

Chair

Communications Compliance Ltd