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Authority Secretariat
Australian Communications and Media Authority

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By submission: <https://www.acma.gov.au/consultations/2024-02/compliance-priorities-2024-25>

RE: Compliance Priorities 2024-25

The Internet Association of Australia (**IAA**) thanks the Australian Communications and Media Authority (**ACMA**) for the opportunity to respond to the ACMA's Compliance Priorities 2024-25 Consultation 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 other telecommunications services.

We recognise the importance of the ACMA's work in monitoring and enforcing compliance, particularly to decrease consumer harm in relation to the communications and media industry. However, we strongly believe that compliance is not only, or perhaps best, achieved through increasing enforcement efforts. Rather than focusing on deterrence via enforcement measures, we recommend finding other avenues to encourage industry compliance, including (but not limited to):

- increased resources such as guidance and education materials for both industry and end-user consumers;
- meaningful community and industry engagement to raise awareness and increase collaboration on effective and efficient mechanisms to combat issues; and
- lowering the burden of regulatory compliance for industry.

Compliance Approach to Financial Hardship

In particular, IAA and our members are concerned that the new introduction of the *Telecommunications (Financial Hardship) Industry Standard 2024* (**Standard**) that is soon coming into effect from 29 March 2024, the ACMA will continue to focus on telecommunications providers' compliance with financial hardship obligations in accordance with the new Standard. We acknowledge the importance of ensuring protections for customers experiencing financial hardship, and our members are committed to providing such protections. However, to that end, we sincerely request greater guidance from the ACMA to assist industry guidance.

Since the introduction of the new Standard, there has been very little guidance provided from the ACMA in the form of educative or awareness raising material, or a briefing/town hall to help

industry unpack what is quite a substantive change from the financial hardship provisions set out in the *C628:2019 Telecommunications Consumer Protections Code*. Furthermore the grace period between 6 February when the legislation was introduced to 29 March when it is due to come into effect is very short, despite the various changes that providers would have to implement, including systems changes.

As we anticipate that protecting telecommunications customers experiencing financial hardship will continue to be a focus area for 2024-25, we respectfully and sincerely request that in its compliance enforcement, the ACMA takes an educative and awareness raising approach rather than punitive. This was an approach that was recently taken by the Department of Home Affairs following legislation related to the *Security of Critical Infrastructure Act 2018* (Cth), recognising that industry, including the telecommunications industry, were unfamiliar with their new obligations. The Department actively worked with industry through a series of public forums, written material and bilateral meetings, and assured that for the first 12 months since the legislative reform, that penalties would not be enforced except in only the most egregious cases of contravention.

We strongly urge the ACMA to take a similar approach, and commit to a grace period, during which the ACMA will actively work to raise awareness amongst both industry and for consumers about the new Standard, and publish material such as fact sheets that set out in simple terms, the requirements for telecommunications providers to comply with the Standard. This would be very helpful for smaller providers, such as our members, who do not have the resources to unpack complex legislative material.

Scams

Similarly, IAA and our members would greatly appreciate a collaborative approach to combatting scams to ensure greater protections for end users. We understand this continues to be an issue in the industry, and strongly believe it to be an area that would benefit from genuine cooperation between all stakeholders to combat scam activity in Australia. Again, we would appreciate guidance when it comes to unpacking scam related legislation, which we understand may grow in number following recent the recent consultation process undertaken by the Treasury.¹

General industry guidance

In general, we also request the ACMA regularly reviews and updates its material, to ensure updated and accurate information is provided to telecommunications providers to assist with their compliance. For example, the ACMA's Carrier Licence Application Form sets out in Section 6, 'Compliance Information'. Although we understand that it would not be possible to set out all obligations for a carrier on this form, it does seem like certain critical pieces of information are missing, and that this section has not been updated despite changes in the regulatory space for the telecommunications industry since 2022.

For example, under the information about the *Telecommunications (Interception and Access) Act 1979*, it is suggested that the Communications Access Coordinator is still managed by the Department of Home Affairs, although this now falls under the Attorney-General's portfolio. In addition, there is no information about telecommunications now being deemed a 'critical infrastructure' sector, and the positive security obligations that carriers must comply with, as a

¹ <https://treasury.gov.au/consultation/c2023-464732>

condition of being a licence holder under the *Telecommunications (Carrier Licence Conditions – Security Information) Declaration 2022*.²

Having outdated information on the Form makes it very confusing and difficult for telecommunications providers ensure their compliance, in what is already a very complex regulatory landscape.

Once again, IAA appreciates the opportunity to contribute to the ACMA 2024-25 Compliance Priorities. As we continue to support the work of the ACMA in ensuring the safety of consumers and the resilience of Australia’s communications industry, we emphasise the importance of taking a holistic approach to ensuring compliance, including a concerted educative approach. We sincerely look forward to continue working with the ACMA, industry, government and other stakeholders for this purpose.

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

² However, we understand that the specific rules may be subject to change, following the recent consultation on legislative reforms pertaining to cybersecurity and critical infrastructure: <https://www.homeaffairs.gov.au/help-and-support/how-to-engage-us/consultations/cyber-security-legislative-reforms>