INTERNET ASSOCIATION OF AUSTRALIA LTD
ABN 71 817 988 968
ACN 168 405 098
PO Box 8700
Perth Business Centre WA 6849
Phone: 1300 653 132

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To the Manager,
Telecommunications Performance and Regulations Section
Australian Communications and Media Authority
PO Box 13112 Law Courts, Melbourne VIC 3000

By submission: ACMA Consultation Hub

RE: Proposal to make the Telecommunications (Consumer Protections) Industry Standard 2026

The Internet Association of Australia Ltd (**IAA**) thanks the Australian Communications and Media Authority (**ACMA**) for the opportunity to respond to the consultation on the proposal to make the *Telecommunications (Consumer Protections) Industry Standard 2026* (**TCP Standard**).

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**) and retail service providers (**RSPs**) that would be subject to the TCP Standard. Our response is primarily in representation of these members that make up the small telecommunications providers within the market.

From the outset, we emphasise that IAA and our members recognise the importance of robust consumer protections to ensure a healthy, thriving sector. We also recognise and acknowledge the value of having regulatory safeguards for this purpose and help ensure consistent baseline protections. To that end, IAA has actively engaged with the ACMA, and other stakeholders in respect of consumer protections regulation, including in the public consultation processes held by the Australian Telecommunications Alliance (**ATA**) during the review of the *C628: Telecommunications Consumer Protections Code* (**TCP Code**).

IAA considers it crucial that for consumer protections regulation to be effective, it must be practicable and proportionate. In particular, regulatory requirements must reflect the operational and technical realities of all industry participants it seeks to regulate. We are thus concerned that as currently drafted, the TCP Standard fails in this regard. Overall, we are particularly concerned about the below overarching issues. The obligations:

- are primarily designed around tier-1 telecommunications operators, with limited regard to proportionality for small and medium sized providers that are resource constrained and will be disproportionately burdened by the regulation;
- are not technically or operationally practicable, and in many cases are designed around bundled mobile and device offerings;
- imposes liability on the wrong entity, often the reseller, despite responsibility lying with the upstream carrier or third party vendor;
- imposes cumulative burdens and overlap with other instruments; and

- will significantly increase costs for providers, particularly small and medium sized providers. Providers will either pass these costs on to consumers through higher prices, or challenger providers will be squeezed out of the market, reducing competition. Neither outcome is in the consumer best interest.

In preparing this response, IAA consulted extensively with our members. While individual positions may differ in respect of specific provisions and suggested resolutions, members were broadly aligned on the overarching concerns outlined above. We therefore provide this response to contribute to a proportionate TCP Standard that reflects an appropriate balance between robust safeguards for consumers, that does not unduly burden telecommunications providers.

We also annex to this response:

- Annexure A: estimated costs of complying with the TCP Standard, containing commercially sensitive information; and
- Annexure B: a summary of the responses to an IAA survey on the regulatory impact of the TCP Standard.

We request both of these annexures to be treated as confidential, and are not published.

Given the breadth and significance of the concerns, IAA considers they would be best resolved collaboratively, through further consultation. We respectfully request the ACMA commit to a co-design process through a multi-stakeholder working group representing industry, including small and medium sized providers, upstream carriers, consumer representatives and the TIO, prior to the TCP Standard being finalised. This would allow the practical issues raised in this submission to be worked through before the TCP Standard is finalised, and help ensure the final obligations are workable and effective to achieve the intended outcomes. IAA would welcome the opportunity to work constructively with the ACMA and all stakeholders.

OUR RESPONSE

PART 1 – PRELIMINARY

Section 5 definitions

Affordability indicators
Consultation Q14

We understand that the list of affordability indicators has not been finalised. Our members have advised that they cannot complete designing, implementing or even assessing the full impact of the credit assessment requirements while the indicators remain a placeholder.

IAA is also concerned about the indicators the ACMA has foreshadowed, such as income stability, other liabilities and regular living expenses. We understand these are drawn from responsible lending guidance for credit providers, and collecting them would place burdens on telecommunications providers that they are not set up to meet. As will be further discussed below, we are concerned about the increasing expectation that telecommunications providers are being expected to perform roles and functions outside of their scope.

Gathering and keeping this information increases privacy and data retention risk for providers and is invasive for customers. Members have also commented that they believe customers are unlikely to be comfortable providing such extensive information, which would be outside of the norm for a standard telecommunications sale. We note subsection 50(7) also requires providers to consider employment status, source of income and at least two other indicators.

IAA recommends that:

- **the ACMA finalise the list of affordability indicators, in consultation with stakeholders, before the credit assessment obligations commence.**
- **subsection 50(7) apply "to the extent known", so providers are not penalised where a customer does not provide the information.**
- **the ACMA limit the indicators to those that can be assessed without intrusive questioning, and confirm that a customer's own statement of their circumstances is sufficient.**

Business day

The use of the term "business day" causes complexity for providers who operate across multiple states and territories. Furthermore, there are several provisions that specify compliance timeframes in reference to "business days" where "calendar days" is more appropriate in the context, as will be pointed out below in respect of the relevant provisions.

Consumer

We understand that the TCP Standard proposes to expand the definition of 'consumer' so that all not-for profit organisations (NFP) are within scope, regardless of the NFP's size, spend or bargaining power. This is inconsistent with the *Telecommunications (Consumer Complaints Handling) Industry Standard 2018* (**Complaints Standard**) and the *Telecommunications Service Provider (Customer Identity Authentication) Determination 2022* (**Customer Identity Determination**)[1] which only captures NFPs that – similar to small business customers – acquire telecommunications product(s), not for resale, and do not have the opportunity to negotiate the consumer contract terms, or will not have an annual spend of over $40,000.

We acknowledge that other instruments, such as the *Telecommunications (Financial Hardship) Industry Standard 2024* (**FH Standard**) and *Telecommunications (Domestic, Family and Sexual Violence Consumer Protections) Industry Standard 2025* (**DFSV Standard**) use the same definition proposed under the TCP Standard, under which all NFPs are covered.

However, we consider this inappropriate. As 'NFP' is not defined, the term can cover a vast range of organisations, including large organisations that may have considerable bargaining power, such as insurance companies or health and educational institutions. Failing to limit which NFPs constitute a 'consumer' is likely to greatly expand the scope of customers to which obligations apply. The retail consumer safeguards contained in the TCP Standard are unnecessary in the case of large NFPs who have considerable bargaining power, can often negotiate bespoke terms and manage their own telecommunications safeguards.

This is also likely to particularly affect smaller telecommunications providers who operate in niche markets, such as by providing services within a specific sector. Such providers may now even find themselves captured under the TCP Standard for the first time, despite the comparable bargaining power, and B2B relationship with their customers.

We recommend that the definition of "consumer" be amended so that the same thresholds that apply to a small business consumer (annual spend, and opportunity to negotiate a consumer contract) is applied to NFP organisations.

[1] The Customer Identity Determination uses the term "customer", in place of "consumer".

We further recommend that the definition used for "consumer" under the FH Standard and DFSV Standard are also amended accordingly. We consider this to be appropriate for consistency and harmonisation, but also as the same principle applies in the context of the FH Standard and DFSV Standard.

We further note that including "authorised representative" within the definition of "consumer" causes confusion and complication, particularly with respect to the operation of proposed section 24. It can also expand the scope of how or when a provider must perform obligations. **We request the ACMA clearly identify and distinguish which obligations should apply to a consumer's authorised representative(s).**

We also take this opportunity to recommend that the various regulations[2] concerned with consumer protections should be folded into one instrument, to reduce complexity, confusion, and potential overlaps or inconsistencies. We note that many of these, such as complaints handling processes and financial hardship arrangements were previously regulated under the TCP Code (or previous versions of the TCP Code). Now that the TCP Code is also being made into an industry standard, we consider it timely and appropriate to consolidate these instruments under the TCP Standard.

Large providers and small providers

IAA considers the proposed definition for a "large provider", being a provider with at least 30,000 services in operation (**SIOs**) as inappropriate, and fails to reflect the market reality.

We understand that this definition has been commonly used throughout telecommunications regulation. In principle, we support harmonisation with other regulation, wherever possible and reasonable.

However, this proposed definition treats a growing, challenger telecommunications provider as being the same as a tier-1 provider that has vastly more resources. Additionally, SIOs does not mean the number of customers, and therefore tends to capture small providers who bundle services. We also note that the ACCC is proposing to set the threshold for when the Retail Telecommunications Record Keeping Rules shall apply at 50,000 SIOs, following feedback on an earlier consultation with respect to the rules that a threshold of 30,000 SIOs is too low.

Furthermore, while the term 'small provider' is used in paragraph 41(2)(b), it is not defined. We assume that "small provider" is intended to capture all providers that are not a "large provider". In general, we do not consider the TCP Standard reflects a genuine understanding of the resource constraints of small and medium-sized providers. Many of these operators are sole-traders or employ less than 5 staff, and typically do not have in-house regulatory capacity. They operate on thin margins, often as resellers that have limited control over the underlying network.

IAA recommends:

- **The establishment of at least three categories of "providers" that should be subject to the TCP Standard – small, medium and large – with graduated compliance obligations to apply, proportionate to the provider's size.**
- **the use of a combination of capacity indicators including annual revenue, employee headcount, and market share, in addition to the number of SIOs to set the appropriate threshold for small, medium and large providers.**

[2] Including, but not limited to the Complaints Standard, *Telecommunications Service Provider (Customer Identity Authentication) Determination 2022*, FH Standard, and DFSV Standard.

- **if the threshold based on only SIOs is to be retained, then the thresholds should be set accordingly:**
    - **small providers: 3,000 SIOs or less**
    - **medium providers: under 100,000 SIOs**
    - **large providers: 100,000 SIOs or more**
- **We also consider there would be great value in introducing an additional category of providers – "micro providers" – that should be exempt from the TCP Standard entirely, but encouraged and supported to comply on voluntary basis in the provider's initial stage of growth.**

We look forward to working with the ACMA, industry, consumer bodies and other stakeholders to develop new thresholds for small, medium and large providers.

We will use the terms small provider and medium provider throughout our response accordingly.

Mis-selling

The proposed definition is too broad and at times, ambiguous:

- Proposed paragraph (a) of the definition would cover minor technical errors that may not necessarily cause harm to the consumer, but would then attract all the subsequent rectification obligations or penalties.
- Proposed paragraph (c) is too ambiguous without defining or providing clear guidance as to what is considered "all reasonable steps" in this context.
- Proposed paragraph (f) could cover sales where the provider advised the customer of service quality expectations, including the unlikelihood of the service delivery, but the customer chose to continue with the sale regardless.

We recommend that the definition should reflect intent and materiality, so that genuine, technical errors that do not cause harm is not treated as mis-selling. Furthermore, remedies should be proportionate to the harm, as will be discussed further below in response to Part 5 of the TCP Standard.

Preferred communications method

We do not support the inclusion of "any agreed preferred time for communications" as forming part of the definition of "preferred communications method". This will be discussed further below, in response to Part 3.

Protected number

We do not consider the inclusion of "any other numbers required by law" as proposed in paragraph (e) appropriate. We reiterate the regulatory burden of resource constrained small and medium providers. Imposing the obligation on such providers to actively track numbers that must be treated as a 'protected number' causes unnecessary burden and anxiety.

IAA recommends that the definition clearly identify and list the relevant numbers that must be treated as protected numbers.

We will also discuss the limited feasibility of the requirements surrounding protected numbers below in response to Part 8.

Suspension

The term "suspension" is defined as a suspension imposed on a customer's access to a telecommunications service, "excluding access to emergency service numbers". This appears to require that access to emergency service numbers be preserved whenever a service is suspended. That causes complexity and uncertainty, as Part 8 sets out similar requirements separately (for example, subsection 93(7)). The Standard also uses the verbs "suspend" and "suspended" in a number of places, which are not defined. It is therefore unclear whether the exclusion in the definition applies each time those words are used, or only where the defined term "suspension" appears.

IAA recommends that the ACMA remove the exclusion from the definition and deal with access to emergency service numbers in Part 8 only where the exclusion is intended to apply, so that the obligation limits are clear.

Vulnerable circumstances
Consultation Q16

We consider the proposed definition as being too broad, particularly due to the proposal to include "other circumstances affecting a consumer's ability to access or maintain telecommunications services" which causes ambiguity for providers to interpret and apply the definition. **We request that the ACMA provide a clearer definition, as well as what is exactly included or excluded in applying the definition to specific circumstances to provide greater clarity for providers.**

Commencement date
Consultation Q22

We understand that the ACMA has not yet proposed a commencement date for the TCP Standard. Furthermore, as currently drafted, the only obligations to which a longer implementation timeframe is being proposed are:

- Proposed section 19: all providers are given 12 months to ensure their digital content complies with the WCAG 2.2 requirements.
- Proposed section 41: small providers have an additional 12 months before they must start completing the quarterly mis-selling reports.

IAA takes this opportunity to reiterate the resource constraints of small and medium providers. As the proposed TCP Standard is an overhaul of the current TCP Code, providers need sufficient time to review, understand and implement the many, substantial regulatory obligations. While we understand some of the proposed measures and uplifts have been anticipated by some sections of the industry – primarily, the larger tier-1 telecommunications providers – this is not the case across the industry, many of whom were not aware of or had the capacity to engage in the TCP Code review process.

Overall, we emphasise that given the substantial changes being proposed, industry will need sufficient and reasonable time and opportunity to implement changes in an efficient and thorough manner. Smaller providers in particular will require greater time given their resource constraints. Our members especially indicated obligations requiring changes to IT systems would require the longest lead times, of up to and even longer than 12 months.

Additionally, we note that many of the matters in the proposed TCP Standard are contentious and require resolving before providers can begin to design, build, and implement the required changes. This includes, but is not limited to, credit assessments, which the Consultation Paper identifies as an area in which the ACMA is still considering the most suitable approach. The commencement date must therefore allow for appropriate implementation periods from the date that these matters are resolved.

IAA therefore recommends staged commencement as follows:

- **Staged commencement depending on provider type (large, medium, small): Most members indicated that a 6 to 12 month lead time would be necessary to implement changes to their systems, processes and policies, with many indicating longer than 12 months would be necessary for certain obligations involving IT systems changes.**
- **Longer implementation period (minimum 12 months) for changes requiring technical changes: in particular, sections 21, 40–41, 42(1)(b), 50–56, 78–79, 81, 87–88 and 91–95.**
- **Upstream vendor dependency: Ensure obligations that rely on upstream vendor capability only commence after the capability exists.**

We also reiterate, as above, that obligations that depend on defined terms or matters that have not yet been finalised should not commence until those are resolved, and then only after an appropriate implementation period.

PART 2 - ORGANISATIONAL CULTURE AND GOVERNANCE

In principle, IAA and our members support providers taking measures to ensure appropriate organisational culture and governance arrangements to support fair and effective consumer outcomes. However, we are concerned that the proposed requirements are overly prescriptive, broad in scope, and do not reflect the operational realities of small and medium providers.

Proportionality to size and structure of the provider

The requirement under proposed section 8 to create policies, processes, procedures, training and support material that address "***all*** obligations under this [TCP Standard]" (emphasis added) that apply is too broad and unnecessary, and would greatly contribute to the compliance burden for small and medium providers. We note similar language is used in proposed paragraph 13(2)(a) whereby monitoring of personnel must cover "***all*** obligations" (emphasis added).

We reiterate the resource constraints of small and medium providers, for whom documenting policies and procedures, and developing training and support materials is by no means a small task. Many providers will require legal assistance due to the lack of in-house regulatory capacity, meaning such providers will incur even greater costs to develop these materials.

We further note that "processes", as distinct from "procedures" has not been defined, and is therefore unclear as to what is being required from providers to comply with this requirement as it states both processes and procedures must be developed.

IAA recommends that:

- **paragraphs 8(1) and 13(2)(a) are confined to specify the written policies, processes, training and support material required or to which the monitoring obligation applies.**
- **the ACMA clarifies the difference between "processes" and "procedures", and whether both are required.**
- **the "appropriate to size" language continued in section 8(3)(b) is carried through to the whole of Part 2.**

We also highlight that the governance arrangements fails to reflect the operational realities of small and medium providers that operate as sole-trader businesses, or micro-teams consisting of less than 5 staff. As discussed above in respect of the "large provider" definition, due to it capturing medium sized, challenger providers, even in the context of "large provider" operations, there may

not be a different senior executive to the Chief Executive Officer to be able to comply with proposed paragraph 9(3).

Furthermore, in sole-trader businesses, the same person creating and completing the training, is then also monitoring and reviewing their own performance under proposed section 13.

Quarterly monitoring, furthermore, is too onerous, even on larger providers. This is especially the case in consideration of the cumulative burdens being placed on a provider, even within the TCP Standard itself, which sets out various other obligations that must also be carried out on a quarterly basis.[3]

IAA recommends:

- **governance responsibilities to be held by one person, where there are no other suitable executives within the provider's organisation structure.**
- **small providers to be exempted from section 13.**
- **paragraph 13(c) to be amended to require annual, rather than quarterly documented monitoring.**

Duplicative obligations with other instruments

We note that the training obligations under proposed sections 8 and 11 sit alongside the training requirements in the FH Standard (section 27) and DFSV Standard (sections 21-22) and there are some overlaps especially in relation to (but not limited to) vulnerable circumstances and preferred communications methods. We further note that even sections 8 and 11 of the TCP Standard duplicate the training requirements within the draft itself. As discussed above, to reduce complexity and confusion, we reiterate the need to consolidate the consumer protections regulation under one regulatory instrument.

In the meantime, we request the ACMA to map and publish the training requirements under the various instruments to assist small and medium providers with their compliance efforts.

Support for small providers

We are particularly concerned about the requirement that training of personnel must cover content pertaining to First Nations consumers. IAA supports the policy intent behind this requirement, and understand its importance, particularly in light of recent mis-selling incidents that particularly affected First Nations consumers. However, we are concerned that providers are unlikely to be well-placed to develop such training material, and of the consequences should such training not be developed or delivered in an appropriate and culturally sensitive manner. Equally, we would be concerned about the cost implications should the ACMA impose further regulation to ensure such training material be developed in a manner that mirrors the training development requirements under sections 21-22 of the DFSV Standard.

IAA strongly holds that it is important that to ensure better outcomes for First Nations consumers, the training delivered across the market is consistent, appropriate, culturally sensitive and does not propagate or promote biases.

As such, we recommend that:

[3] See proposed sections 41 and 60.

- **the ACMA provides template policies, procedures, training and support material for small and medium providers to adopt, to assist with providers' compliance efforts, but to also help ensure consistency across the market.**
- **at minimum, such template policies, procedures, training and support material be developed by the ACMA in relation to the content specified under proposed paragraph 11(1)(e).**
- **longer implementation periods be provided to small and medium providers, noting their limited regulatory capacity to develop written materials prescribed under this Part 2.**

PART 3 – SUPPORTING CONSUMERS AND IDENTIFYING NEEDS

IAA and our members support providers being able to identify and respond to the needs of consumers, including those experiencing vulnerability. However, we are concerned that Part 3 introduces broad, subjective obligations that are difficult to operationalise, overlap with obligations in the FH Standard and DFSV Standard, and in several places depend on system changes that small and medium providers cannot make quickly.

Accessibility requirements

We support and appreciate that section 19 provides operators with a 12-month lead time and consider this appropriate. Indeed, one member who recently updated their website for other purposes reported 12 months was required. **We recommend the provision of proportionate and appropriate implementation timeframes be applied throughout the TCP Standard.**

We are concerned about the obligations under subsection 17(2) in respect of providing assistance in other languages, where the provider advertises, or provides information in that language. We note that subsection 18(a) and paragraph 30(1)(w) require providers to provide contact details for interpreter services in multiple languages. This could then be taken to mean that the provider has "provided information…in a language other than English" for the purposes of subsection 17(2), and would therefore require the provider to provide assistance in that language.

We recommend that the ACMA expressly states in the TCP Standard that including interpreter contact details as per subsection 18(a) or paragraph 30(1)(w) does not trigger the subsection 17(2) requirement.

Preferred communication method

Overall, IAA opposes the obligations requiring providers to establish and use preferred communications methods for specified communications, particularly as it relates to the preferred time for communications. We understand similar obligations are already in place under the DFSV Standard. However, under the proposed the TCP Standard, this would apply to effectively most, if not all, outbound communications relating to the customer account, including for bills, receipts, credit notices and contract notices, and greatly expands the scope of when providers must use a specific communication method, preferred by the customer.

We do not fully understand the risk, harm or issue this new obligation is intended to address in order to be able to assess whether the proposed obligation is proportionate or otherwise fit-for-purpose. This is distinct from the importance of ensuring domestic, family and sexual violence (**DFSV**) related support communications being provided to a customer affected by DFSV via particular communications channels and at specified times. In DFSV related circumstances, the risk of harm

when DFSV-related communications are sent to or otherwise accessed by the perpetrator is clear and grave, and thus the obligations – though challenging to comply with - are clearly necessary.

However, under the TCP Standard, not only are the types of communications that this obligation would apply to expanded, but without clear justification. We further note that the Consultation Paper provides no further explanation of the intended benefit of this new obligation.

Complying with this obligation would result in great costs for providers. Many billing platforms and customer relationship management systems currently used by small and medium providers do not have the capacity to customise notices according to a preferred method or time on a per-customer basis. Most communications are automated, and set to specific dates such as the applicable billing period, and not easily customisable. Implementing this requirement will require significant development time, or in some cases, is outside of the control of providers who use third party billing or CRM systems.

Our members identified this requirement as one of the obligations that would take longest to implement. Others indicated it may not be technically feasible for them to comply with at all, without undertaking communications manually – which then also causes wider room for error, and exposes the provider to risk of non-compliance despite their best efforts.

There is also considerable ambiguity in the application of this requirement, such as:

- when it's "relevant" to specify a preferred time for communications.
- what legal obligations apply as contemplated under subsection 21(7).

IAA recommends that:

- **the ACMA identify the specific consumer harm that section 21 is intended to address, with supporting evidence, before the obligation proceeds.**
- **the obligation not apply to routine account communications such as bills, receipts and credit and contract notices, and be confined to communications where the risk of harm is clear, consistent with the DFSV Standard.**
- **the obligation to use a preferred time for communications be removed, or at least, clarified that the obligation to use a preferred time is only invoked where it is reasonably practicable to do so, and reasonably necessary for communications to be sent at that preferred time.**
- **if the obligation is retained, it apply only where reasonably practicable, and the TCP Standard expressly state that providers are not required to build new communication channels or communicate outside standard operating hours.**
- **the ACMA clarify "relevant" in subsections 21(2) and 21(3), the legal obligations in subsection 21(7), and subsection 21(5).**
- **section 21 be subject to staged commencement of at least 12 months, starting only once these points are resolved, following further consultation.**

Identifying and supporting consumers experiencing vulnerability
Consultation Q15 and Q16

We support the policy intent of proposed sections 20 and 22, requiring providers to take reasonable steps to proactively identify and support consumers experiencing vulnerability. However, it is unclear what steps are considered reasonable for a provider to take, particularly where a provider has no face-to-face or any contact with its customers (such as in unassisted online sales), and how a provider is expected to identify vulnerability without discriminating or making assumptions about

its customers. As discussed above in response to Part 1, the broad definition of "vulnerable circumstances" compounds this uncertainty.

It is also unclear what "ongoing support" under section 22 requires beyond referral to external services and the assistance already required under the FH Standard and the DFSV Standard. We are concerned that these provisions again cause duplication and overlap where providers will need to work out how to navigate multiple instruments. As we have noted above, this supports consolidating the consumer protections regulation under one instrument.

In relation to the requests for evidence under proposed section 23, IAA reiterates that pushing the obligation on a provider to identify when something is required "under law" causes uncertainty and anxiety for already resource-constrained providers.

IAA recommends that the ACMA:

- **clarify the steps expected of providers under sections 20 and 22 and provide worked examples, including examples for online-only providers.**
- **clearly distinguish the obligations in sections 20 and 22 from those in the FH Standard and DFSV Standard.**
- **provide guidance and examples as to when requests for evidence and supporting material may be reasonably necessary, or required under law.**

Authorised representatives and advocates

IAA supports consumers being able to nominate someone to act on their behalf. However, we are overall concerned that the TCP Standard fails to provide any further clarity on the processes required to set up an authorised representative. There is currently an inconsistency issue within the industry whereby different providers have different processes and standards for what documentation or authorisation is accepted to set up an authorised representative. We are concerned that the ambiguity in the proposed section 24 will continue to result in inconsistency:

- Paragraph 24(3)(c) refers to "other document". We recommend this is amended to state "other similar document" so that the type of document is clear, with examples of other acceptable documents.
- It is unclear whether authorisation may be given verbally under paragraph 24(3)(c). We request clarity on what should constitute "reasonably required" given many consumers contact providers by phone.
- Providers require guidance on how sections 24 and 25 operate where a consumer is affected by DFSV, and the interaction with the relevant provisions relating to authorised representatives and advocates set out in the DFSV Standard.

Furthermore, as noted above in response to Part 1, the inclusion of "authorised representative" in the definition of "consumer" makes the operation of this section circular and harder to follow.

We also recommend that section 26 clearly states that a provider is not expected or required to develop or provide additional tools to prevent unauthorised access or use of a customer's account or service.

PART 4 - RESPONSIBLE SELLING: ADVERTISING AND PRE-SALE INFORMATION

Critical Information Summary
Consultation Q1 and Q2

IAA supports consumers having clear, accurate information to compare products and make informed purchasing decisions. However, we are concerned that the proposed critical information summary (**CIS**) requirements are heavier than needed to achieve that outcome and, in places, would undermine the purpose of a summary, easily digestible document.

The CIS is intended to be a short, consistent *summary* that helps consumers compare products. The proposed sections 29 and 30 remove the existing page limit and require around 25 content items, which risks information overload. An overly long CIS is less likely to be read and less likely to support well-informed choices, which is counter-intuitive to the outcome the ACMA is seeking.

IAA strongly supports the provision of standardised CIS templates to be developed by the ACMA, for each service type. However, we consider it important that any such templates are also reviewed and consulted on.

IAA recommends that:

- **the ACMA prioritise the content required in the CIS and reinstate a page limit, or otherwise limit the number of items to those that most influence a purchase decision**
- **Paragraph 30(1)(v) be amended to specify "a link to the provider's complaints handling policy"**
- **Paragraph 30(1)(w) be amended to specify contact details to the national translation service.**
- **Paragraph 31(1)(b), which requires the CIS to be available in store, should be amended so that it only applies "where applicable", as many providers operate online only, and do not have physical stores.**
- **the ACMA develop and publish a standardised CIS template for each service type, subject to consultation to review the template is fit-for-purpose. As discussed above, we further recommend that the ACMA expand the types of content for which it will provide standardised templates.**
- **the TCP Standard should include safe-harbour provisions relating to the use of a standardised CIS template.**
- **any machine-readable requirement be subject to separate consultation and a longer implementation period.**

Special promotions
Consultation Q3 and Q4

IAA does not support a separate CIS for special promotions. The Australian Consumer Law, and the unfair trading practices laws to be introduced, already regulate (or will further regulate) misleading promotional pricing. A separate CIS for each promotion would add to the burden on providers, particularly small and medium providers that run promotions frequently, with limited additional benefit to consumers. As the draft recognises, key promotion information can be given in the advertisement itself and the CIS for the underlying product.

IAA also recommends that:

- **the ACMA extend the relief in subsection 28(4) to subsection 28(2).**
- **the ACMA provide guidance on what constitutes "sufficient information" in an advertisement.**

- **the ACMA provide a safe harbour for providers that rely on the coverage information supplied by their host network (see further below in response to Part 5).**

Information for consumers with disabilities

IAA supports consumers with disabilities being able to find the information they need to choose suitable products. However, most of proposed section 34 has little relevance to ISPs and RSPs that do not sell devices. The section appears to be directed at mobile services and handsets. Its requirements to provide details of the "accessibility features of telecommunications products" (paragraph 34(2)(c)), and to align with Code C625:2020 and the Global Accessibility Reporting Initiative (paragraph 34(2)(d)), concern the accessibility features of telephone equipment, which these providers do not supply.

Where more general accessibility principles are intended to apply, we consider they are already covered by sections 20 and 22, which address consumers in vulnerable circumstances, the proposed definition also including disability. Applying section 34 to all providers as well would unnecessarily add cost and complexity without improving outcomes for consumers.

IAA recommends that section 34 be amended to state expressly that it applies only where applicable, that is, to providers that supply products with accessibility features, such as mobile handsets and other similar equipment.

PART 5 – RESPONSIBLE SELLING: SALES, CONTRACTS AND CREDIT ASSESSMENTS

IAA supports the objective of responsible selling and agrees that consumers should not be sold products they do not need or cannot afford. We are concerned, however, that Part 5 imposes obligations that are significantly more prescriptive than the TCP Code, do not distinguish between technical breaches and conduct that causes consumer harm, and in several provisions, apply obligations on providers relating to information or systems outside of their control.

We also recognise that there have been recent instances of mis-selling and misconduct within the industry, that has understandably resulted in responsible selling becoming a priority area for the ACMA and other stakeholders. However, we consider the proposed measures go too far by applying (almost) uniformly to the entire industry. The ACMA should recognise that those instances were committed by a very small number of individuals relative to the size of the industry. Furthermore, the instances involved large tier-1 providers and should not be taken to suggest an inherent issue within the wider industry.

Furthermore, robust protections against mis-selling already exist under the ACL, including significant penalties, and Part 5 should be considered against them. Additionally, Part 5, and each measure contained within should also not be assessed in isolation, but together with the cumulative uplift across the Part, and the TCP Standard as a whole, so that its overall impact on consumer outcomes, and also the cumulative burden on providers, particularly small and medium providers, is properly taken into account.

Responsible selling obligations

IAA supports the intent of sections 35 to 39 which set the general standards of conduct for sales. However, we consider that several elements of the drafting language makes it hard to apply, or would otherwise set unreasonable obligations or expectations:

- Paragraph 36(c) should require a provider not to "knowingly" sell unsuitable products, otherwise the provider is held to a standard it cannot meet where information is incomplete.

- "Pressure" in section 37 is subjective and needs clearer guidance. Importantly, it should exclude reasonable sales persuasion.
- Section 38 requires proactive enquiry into the needs of the customer on every assisted sale. For providers with small sales teams, this is a significant burden, and the requirement should be proportionate to the product and sales channel.

As discussed above in response to Part 1, IAA considers that obligations, and the remedies are triggered as a result of mis-selling should reflect intent and materiality.

IAA recommends that:

- **the ACMA amend paragraph 36(b) to state "…information *reasonably* necessary…"**
- **the ACMA amend paragraph 36(c) to state "not *knowingly* sell…".**
- **the ACMA provide guidance on what constitutes "pressure" in section 37.**
- **section 38 be made proportionate to the product and sales channel.**

Sales incentive arrangements
Consultation Q5

While we agree with the policy intent driving the prescriptive provisions regarding sales incentive arrangements, we consider it an overreach. Similar to our concerns regarding the broad definition of "mis-selling" discussed above, under proposed subsection 40(5), a person's performance payments may be withheld due to any breach of the obligations under Part 5, even where such breaches may be made in error, minor, technical, and/or unlikely to cause harm.

Furthermore, the requirement under paragraph 40(1)(d) is unrealistic, given the nature of customer satisfaction feedback. Feedback is not often provided by customers. Additionally, customers tend to provide feedback, only where it is negative or they encountered a problem, which is therefore likely to skew the feedback a staff member receives. Feedback may also be influenced by factors outside the staff member's control but could nevertheless negatively skew their feedback scores.

Given these provisions would affect personnel livelihoods, we consider it overly harsh.

IAA recommends:

- **subsection 40(5) be amended so that performance payments may be withheld only where the provider is satisfied that the staff member has engaged in mis-selling (as amended to reflect intent and materiality), and not for minor, technical or inadvertent breaches of Part 5.**
- **paragraph 40(1)(d) be removed or amended so that providers may weight performance against a range of customer-focused measures, such as complaints, quality assurance reviews and retention, rather than being required to rely on customer feedback scores.**
- **the weighting between sales value and volume, and customer-focused measures satisfaction be amended to 50/50.**

IAA also seeks clarification on whether the limits in section 40 apply to commissions paid to non-employees, such as referral partners.

Mis-selling reporting
Consultation Q18 and Q22

IAA does not support requiring providers to report mis-selling publicly. The ACMA would already receive the information under section 41 and is able to publish aggregate findings. Public reporting

by individual providers would create reputational risk for providers, including where an instance of "mis-selling" involves a technical error that caused no harm (see the discussion of the definition above in response to Part 1), and could discourage providers from proactively identifying and reporting problems. Further references to "mis-selling" in our response to this Part should be taken as "mis-selling" being amended to reflect intent and materiality, and excluding technical, minor breaches that do not cause harm.

IAA also considers the quarterly reporting obligation in section 41 to be a major burden, particularly on small and medium providers, but in all cases, an overstep, particularly given the additional quarterly obligations noted above in response to Part 2. We appreciate the staged approach in paragraph 41(2)(b), which defers reporting for small providers by 12 months. However, we consider this should go further.

IAA recommends that:

- **the ACMA not require public reporting of mis-selling, and the ACMA should perform this public reporting function.**
- **IAA recommends that mis-selling reporting be triggered only when a provider identifies an instance of mis-selling, rather than applying as a standing quarterly obligation on all providers. Where mis-selling has been identified, quarterly reporting could then form part of the remediation process, so that the ACMA can track whether the provider is addressing the issue, as part of proposed section 45.**
- **At the least, small and medium providers be exempt from the quarterly reporting obligation, or alternatively, the provision should only require these providers to report on an annual basis.**

Pre-sale information and mobile coverage
Consultation Q17

IAA supports consumers having reliable coverage information before they purchase. However, MVNOs and resellers depend on their host network for coverage maps and cannot independently verify them without the extremely significant cost of direct measurement. Under section 44, these providers carry the full obligation for information they do not produce. We also note that paragraph 44(4)(a) refers to a "new residential address" for existing customers, but a provider cannot know in advance where a consumer will use the service, and the provision should specify where the service is for a new residential address. **IAA recommends that the ACMA provide a safe harbour where a provider relies in good faith on the coverage information supplied by its upstream network carrier.**

The CIS acknowledgement requirement in paragraph 42(1)(b) will require system changes for online sales, as will the proposed section 43. Moreover, we consider section 43 to be a duplicate of proposed paragraph 42(1)(b) that introduces little benefit to consumers, while coming at a considerable cost for providers. **We recommend that these provisions requiring system changes be provided an implementation lead time of at least 12 months.** We also request that the ACMA confirms that providing a final order page containing the relevant information specified under subsection 43(1) is sufficient to satisfy the provision.

Paragraph 44(4)(a) applies the coverage information obligation to existing customers who have changed their residential address since their previous purchase. Providers can only act on address changes they have been told about, which customers do not always provide. The trigger also does not depend on whether the new service will be used at the new address, which may not always be

the case. **We recommend that paragraph 44(4)(a) apply only where the customer has notified the provider of a change of address, and the service is intended to be used at that address.**

Remedies

Consultation Q17

IAA supports consumers being able to access a remedy where they have been wrongly sold a product. However, the remedies in sections 45 to 49 are broad, and in some respects do not reflect the market relationship between and corresponding responsibilities of a retail provider and its upstream carrier.

Mis-selling remedies

Under subsection 45(2), a provider must act once it "becomes aware" of mis-selling by any means, including an unresolved TIO complaint, which means a mere allegation could expose providers to cost and the provision of a remedy even where mis-selling did not occur.

Additionally, the requirement for three contact attempts using two methods (subsection 45(4)) may conflict with a customer's preferred communication method, particularly a preferred time or a preference for non-written contact. We do not consider subsection 45(5) as appropriate where a DFSV-affected customer may have authorised an appropriate person as an authorised representative or advocate to receive the communications of this kind, and considers it more appropriate to do so.

Mobile coverage remedies

We note that "reasonable expectations" is not defined and therefore broadens the scope of when a customer may claim a refund under this section.

Furthermore, the provision fails to sufficiently consider the risk of customers using the remedy to leave a contract where the service in fact meets what was described, including where the provider advised that a certain level of coverage was unlikely and the customer proceeded with the sale. This disproportionately affects MVNOs who have limited control over network coverage and rely on their upstream carrier's network, particularly where they did the right thing of advising mobile coverage to the best of their knowledge. These providers also have limited bargaining power against their upstream carriers to recover the cost of having to provide a remedy under this section.

Technology change remedies

As section 47 applies where a provider "implements a change to its network", it is unclear whether MVNOs and other RSPs are caught by changes made by their host network. If so, they would bear the cost of remedies for changes they did not make. The cost of refunding a device is disproportionate for small and medium providers, who have limited bargaining power against upstream carriers.

Vulnerability remedies

As discussed above in response to Part 1, the broad definition of vulnerable circumstances creates a risk of claims a provider could not have anticipated. We appreciate the examples provided in the consultation paper, but the definition is not limited to such cases and as such, could be read to require refunds for *any* customer affected by vulnerability.

Timeframes

We consider three business days to provide a remedy is too short, particularly for small and medium providers, and does not allow for steps that depend on third parties such as returned goods.

Risk of TIO disputes

We are additionally concerned with how the costs under these provisions are likely to be compounded when a matter is escalated to the Telecommunications Industry Ombudsman (**TIO**). If the remedies are codified in the TCP Standard, they will create an expectation among consumers that a remedy is available, even where the circumstances do not fit the provision. Providers will then be exposed to TIO case management fees. In our experience, providers often settle disputes early, even where they consider the claim to be unmeritorious or opportunistic, simply to avoid those fees. The effect is that providers will be forced bear the cost of remedies in circumstances where the TCP Standard did not intend them to apply, and this falls most heavily on small and medium providers, who have fewer resources to contest a claim.

IAA recommends that:

- **remedies in sections 45 to 48 are amended with clear and objective eligibility criteria, so that providers, consumers and the TIO are aligned as to when a remedy does and does not apply.**
- **the ACMA define "reasonable expectations" in section 46.**
- **the ACMA provide MVNOs and RSPs a safe harbour where a remedy is required because of a change made by a host network or other upstream provider, and not a fault with the retail provider.**

Credit assessments – residential customers
Consultation Q6 to Q14

Credit assessments is a priority area of concern for members. In addition to the impact on small and medium providers, and whether the proposed rules reflect market realities, importantly, we also do not believe the thresholds and extensive processes being proposed meet consumer expectations.

We reiterate our position that credit assessments should be considered as part of the overall uplifts in consumer safeguards that intend to address mis-selling.

Practical operation

The credit assessment framework appears to be built around high-value, postpaid mobile contracts bundled with a device, which we understand is often the type of contracts that relate to mis-selling. However, the framework would apply more broadly, including inexpensive, easily cancellable monthly plans due to the drafting language. This is despite the supposed intent, whereby the Consultation Paper states the credit assessment rules are only to apply "to contracts for telecommunications goods (including devices) but not service-only contracts", which is not supported by the drafting of proposed sections 50-53.

The most common contract sold by our ISP members is a service-only internet plan, often billed monthly in arrears, provided on a month-to-month basis. However, these contracts are still likely to fall within the scope of the framework as:

- under subsection 50(1), an assessment is required if the contract "may result in a debt" of more than $300. Subsection 50(5) requires providers to consider compulsory costs that may result in a debt and are ascertainable at the point of sale. For a typical service, these include the plan charges and any connection or installation fee. For example, the NBN new

development fee, is typically $300 on its own. Consumers may also elect to purchase a router or modem for internet connection, which may easily push the first invoice to over $300.

- subsection 50(2) only exempts "upfront service only" contracts which is defined to refer to pre-paid service only contracts. In contrast, the TCP Code currently only applies to contracts with a term of more than one month, and therefore does not capture these flexible service-only plans. The draft TCP Standard therefore expands credit assessment to a large number of low-value, low-risk services.
- the interaction with the disconnection rules in Part 8 may also push the potential debt to be over $300. Part 8 requires providers to give a series of notices over 20 business days' before taking credit management action, offer financial hardship assistance, and wait out minimum periods. This means a customer who does not pay, stays connected for much longer, and therefore the amount a customer "may" owe increases, and may be interpreted to be above the debt limit.

We note that processes surrounding guarantors and deposits (sections 55–56) are uncommon among small and medium providers, and again seem to be frameworks tailored to mobile services bundled with expensive devices.

The ambiguity broadly capturing all debts that may result under a contract may also mean low-cost, flexible month-to-month SIM-only plans are captured where a consumer incurs contingent excess usage charges. Such service-only services may cost as little as $20 per month ordinarily, and yet could be subject to the same complex and costly credit assessment requirements. This is especially as usage records – which as will also be discussed in response to Part 7 – are not always made available by the upstream carrier immediately, meaning exceptional excess charges may be difficult to prevent.

<u>The credit assessment is not in the consumer best interest</u>

Overall, we do not consider the extensive and complex processes surrounding credit assessments will meet consumers' expectations, and may result in unintended adverse outcomes for those who are particularly vulnerable.

As also recognised in the Consultation Paper, multiple external credit enquiries over a short period can lower a consumer's credit score and affect their ability to obtain credit for other purposes. The proposed $300 threshold which will be triggered easily (as discussed above), meaning consumers who shop around for telecommunications services will be exposed to this risk. Easy cancellation processes and flexible, month-to-month contracts are common in the sector, which consumers value as it allows them to move to better offers, keeping the market competitive. The new credit assessment process with reduced thresholds is likely to frustrate this.

Requiring extensive assessment processes, and in some cases refusing service, adds steps and delays for consumers who need a connection. Assessing employment, income and other affordability indicators requires customers to disclose personal financial information to a telecommunications provider. This is invasive for customers while simultaneously increasing the privacy and data retention burden on providers. Providers are also increasingly expected to act as quasi-financial counsellors, which is not their role.

We are also particularly concerned about the unintended adverse effects of the proposed credit assessment process. Consumers who are experiencing, or have experienced vulnerable circumstances may be at greater risk of having a poor credit history. For example, a customer affected by DFSV may have experienced financial abuse that has damaged their credit score. However, the credit history may not necessarily reflect their current circumstances, nor would it be

appropriate to refuse a telecommunications contract under proposed sections 53-54, where connection is urgently needed.

Moreover, the framework places providers in the position of deciding whether a customer can afford a service and prevents the customer from making that choice. Telecommunications providers are not financial counsellors, nor responsible lending bodies, and we do not consider it is their role to refuse telecommunications products, where alternative products do not exist, or even whether the consumer still want to proceed. For the purposes of protecting consumers from mis-selling and financial stress, the role of the telecommunications provider should be to provide information to allow consumers to make an informed choice, not dictate their choices. The current drafting however may widen the digital divide, which is not an appropriate outcome of consumer protection regulation. Consumers who are refused service may also have to resort to other unregulated or exploitative means of obtaining telecommunications products that may push them into greater risk of financial hardship, whereas products obtained via a provider is subject to additional protections under the FH standard.

Cost to small and medium providers

The process set out in proposed section 50-56 is complicated. The multi-step process is hard for smaller providers with limited regulatory capacity to understand how to achieve compliance, especially as it introduces new concepts and steps such as “internal credit limits” and “internal checks”. Based on feedback received from members, these are not widely used by small and medium providers. These terms are not defined in the proposed TCP Standard, nor does the Consultation Paper provide further explanation of how these should be set and applied. Moreover, as addressed above, there are terms that are yet to be defined, such as “affordability indicators”, thereby increasing uncertainty and confusion for providers who have had less exposure to the proposed changes through the TCP Code review process, and lack the regulatory capacity to understand and implement complex rules.

Furthermore, external credit checks are a significant cost for providers with thin margins. The proposal to reduce the threshold for when an external check is required will therefore disproportionately impact smaller providers. One member told us the cost of a single check can represent up to eight months of service margin on a typical service to recover. Providers are likely to pass these costs on as higher prices for services, which we consider to be counter to the aims of the TCP Standard. Simultaneously, members have expressed that smaller providers are particularly disadvantaged as they lack the scale and profit margins to absorb the costs of obtaining external credit checks, and yet are not in a position to increase prices for services as this would make them less competitive, when compared to large providers who do have such resources to absorb costs. These providers are more likely to be squeezed out of the market, reducing competition and resulting in a worse outcome for consumers.

Moreover, the rules surrounding external credit checks are likely to favour the large tier-1 providers with larger existing customer bases at the expense of smaller, challenger providers. As paragraph 50(9)(c) establishes a limit on repeat checks for existing customers only, consumers conscious of their credit score may be more inclined to stay with their incumbent provider, regardless of service quality or affordability. This is also counter to promoting competition in the market, and again, fails to serve the consumer best interest.

As will be discussed below in response to Part 8, many providers already bear the risk and costs of non-payments by waiving debt, rather than pursuing debt collection under the flexible month-to-month model. As such, imposing additional burdens and associated costs through complex credit assessment processes for such service contracts is inappropriate.

We also note that an external credit check also shows only whether a customer has defaulted in the past, and not their current capacity to pay, so the benefit is limited.

IAA recommends:

- **the ACMA clarify the scope of section 50 and when credit assessments should be conducted, including the types of costs that must be considered.**
- **the amendment of subsection 50(2) to state all service-only contracts are excluded, to align it with the position outlined in the Consultation Paper.**
- **the residential customer debt limit be increased to $1,000.**
- **the residential customer debt limit to exclude one-off installation, connection or similar fees.**
- **the residential customer debt limit to exclude modems, routers or similar equipment needed to receive the service.**
- **the residential customer debt limit to exclude exceptional excess charges.**
- **the ACMA provide guidance and support material on establishing and applying internal credit limits and internal checks.**
- **subsection 50(7) to apply only "to the extent known".**
- **sections 53-54 be amended to require a provider to advise a customer when its assessment indicates the product may be unsuitable, offer alternative products, and to inform them of the FH Standard and the provider's financial hardship policy. For the avoidance of doubt, a provider should not be prohibited from entering a consumer contract where the consumer decides to proceed.**
- **paragraph 53(2)(b) be removed or amended so that a customer who may experience financial hardship is not refused service outright, and the provider instead offers an alternative product or, where appropriate, financial hardship assistance under the FH Standard.**
- **the credit assessment obligations be subject to staged commencement, subject to further consultation and after the affordability indicators have been finalised.**

Credit assessments - Business customers

We note that credit assessments for business customers is a new requirement, and again likely to disproportionately affect small and medium providers. Many providers currently do not run trading history or insolvency checks, and doing so will require them to set up new systems and processes, and therefore new costs associated with setting up and carrying out assessments for business customers on an ongoing basis. Small business customers are unlikely to welcome this new process as it also affects their credit score and adds friction to getting connected.

The concerns raised above in relation to residential customers apply equally to business customers, and in some respects are more pronounced:

- Market dominance of large, tier-1 providers: Section 51(5) requires an external credit check for every new business customer, while existing customers of a provider are not subject to the same requirement. This favours providers with large existing customer bases, and discourages small businesses from switching, which may entrench the market position of large, tier-1 providers, and negatively affects competition in the industry.

- Small and medium providers: Many smaller providers' business models are built on serving small businesses, so they will carry the compliance burden of this section most heavily.

IAA recommends that:

- **the ACMA remove the requirement for an external credit check for every new business customer in subsection 51(5).**
- **the business customer debt limit excludes installation and connection fees, and equipment needed to receive the service, consistent with our recommendation on the residential customer debt limit.**
- **the ACMA exempt low-risk, postpaid month-to-month service-only contracts from proposed section 51, consistent with our recommendation for residential customers.**
- **section 51 be subject to staged commencement, with a longer implementation period for small and medium providers to give them a reasonable opportunity to set up new processes and systems.**

PART 6 - CUSTOMER SERVICE AND SUPPORT

IAA supports consumers being able to get timely help and being treated fairly when they change or end their services. We are concerned that Part 6 overlaps with the Complaints Standard, and that some of the performance measures would be difficult, even for large providers to meet.

Customer service issues

Proposed sections 59 to 61 introduce requirements for handling "customer service issues". The Standard does not clearly distinguish these "issues" from "complaints", which are already regulated under the Complaints Standard. It is our interpretation however that they be treated and handled separately, despite the potential for overlap and duplication. We note the further overlap with network outages which is separately tracked and reported on under the T*elecommunications (Customer Communications for Outages) Industry Standard 2024*.

Section 61 also requires performance measures to be monitored and recorded, such as first-contact resolution and wait times. These are hard for large providers to measure accurately, and it is our understanding that many of our members do not currently track these metrics. The update provisions under subsections 61(3)-(4) are particularly prescriptive and do not reflect the resource constraints of small providers. Building the capability to measure and track resolutions requires systems and staff that these providers do not have, and will come at a considerable cost.

IAA recommends that:

- **the ACMA clarify the distinction between customer service issues and complaints.**
- **section 61 applies to large providers only.**
- **subsections 61(3)-(4) be removed and replaced with an obligation for the provider to keep the customer informed of material updates, no less than 5 business days from first contact.**

Contract changes, transfers and termination

We are concerned that proposed section 63 overlaps with the proposed unfair trading practices law that was recently introduced, and set to commence in July 2027. Reiterating the cumulative compliance burden for small and medium providers, particularly where duplicative regimes exist, we recommend that the ACMA remove proposed section 63.

Notwithstanding this position, if requirements surrounding consumer requests to change or terminate a contract are to be retained, we recommend:

- **a longer implementation period for small and medium providers.**
- **the ACMA to provide guidance material that maps out a providers' obligations surrounding contract changes or terminations under overlapping regulatory frameworks.**

We appreciate the exclusions provided under subsection 64(2) as to when the 20 business days' notice to change a consumer contract is not required. However, we consider this does not go far enough. **IAA recommends:**

- **the 20 business days' notice period to only apply to material changes that would impact the consumer;**
- **a new paragraph 64(2)(c) that specifies "any other reasonable circumstances that require a shorter notice timeframe". We anticipate this will include circumstances such as urgent changes needed to protect network or customer security, especially in the current and evolving threat environment with AI-related security issues.**

Transfers, sale of business and carrier changes

Firstly, we request the ACMA provide guidance material on how to complete identity verification steps under proposed subsection 67(3) for customers affected by DFSV, in a manner that is consistent with the DFSV Standard, and how these schemes interact with the *C566:2023 Number Management – Use of Numbers by Customers*.

As discussed above in response to Part 3, the requirements under sections 72-75 to notify a customer using their preferred communication method where a business is sold or services move to a different carrier is impracticable at scale.

IAA recommends that the right to exit without charge apply only where the change has a material adverse impact on the consumer.

PART 7 - ACCOUNT SUPPORT, SPEND MANAGEMENT TOOLS, BILLING AND PAYMENT

We are concerned that Part 7 imposes obligations that expose providers to a risk of liability for matters outside of their control. We also consider the overall approach to billing and payment flexibility goes too far considering the FH Standard is already in place and provides safeguards to ensure consumers experiencing vulnerability/ies can remain connected to telecommunications services.

Usage information and notifications
Consultation Q22

While we support the intent to provide consumers with up to date usage information, the prescriptive requirements as drafted under proposed sections 78 and 79 may be technically infeasible for MVNOs and RSPs. The strict timeframe can only be met if a wholesale provider supplies usage records fast enough. According to our members, while some wholesale providers currently provide information that will allow resellers to meet the 12-hour timeframe, this is not consistent throughout the market, whereby wholesale records can take up to 48 hours to arrive, and even longer for roaming data.

Subsection 79(7) compounds this issue as a provider that notifies a customer late may be unable to recover the excess usage charges, but would still be liable to its wholesale provider for the cost. The provider is therefore penalised for a delay it did not cause and has no control over. As noted above, resellers often have limited bargaining power with wholesale carriers to renegotiate their contractual position in order to recover any costs incurred as a result of the wholesale provider's failure to provide usage in formation in an expedient manner.

IAA recommends that:

- **both sections 78 and 79 apply only to services that are not provided on an unlimited basis.**
- **the ACMA recognise that these obligations depend on wholesale records, their timely transmission and utility, and provide a safe harbour where a provider has acted promptly on the records it has received.**
- **subsection 79(7) be amended so that providers are not liable for delays outside their control.**
- **as discussed above in response to Part 1, obligations that rely on upstream vendor capability should only commence once that capability exists.**

Billing, direct debit and account records

System changes

We note that the various obligations surrounding billing will require providers to make considerable systems (and operational) changes, including, but not limited to:

- providing account records within a customer portal
- providing two fee-free payment methods
- recording explicit direct debit consent acknowledgement
- direct debit payment flexibility arrangements

As discussed above, in some cases, how long it takes for a provider's billing and customer portal systems may be outside the provider's control where the provider is using an off-the-shelf billing or CRM system.

Even where a provider uses its own billing or customer portal systems, implementing changes in accordance with the proposed obligations is likely to take considerable time. Indeed, this is one of the key areas identified by our members as likely to take up to, or longer than 12 months to develop. **We recommend the ACMA allow a minimum of 12 months before these (and other system dependent) obligations commence.**

Practicability and feasibility concerns

Section 80 requires a bill to be supplied at least 7 business days before the final payment date. However, billing systems issue bills on an automated, fixed schedule, so depending on the time of year, and which state or territory a provider operates in, accounting for weekends and public holidays, 7 business days can mean anywhere from 10 to 18 calendar days which makes it very difficult for providers to track and comply with. As discussed above in response to Part 1, IAA recommends that subsection 80(4) be amended to 14 calendar days, instead of 7 business days.

Resellers also often operate according to fixed wholesale billing periods that they cannot independently change. For example, one member reported issuing bills at the start of each month and collecting mid-month to meet wholesale due dates. Individually variable dates create system

costs and a genuine cash flow risk for small and medium providers. Customers who are in financial difficulty can already seek a financial hardship arrangement under the FH Standard. **To balance improved consumer outcomes and minimising compliance burden for providers, we recommend the ACMA allow providers to offer flexibility within the constraints of their billing cycle, for example a choice between a number of fixed dates.**

The timeframes in section 88 also do not fit standard practice. For example, multiple members have raised that PayTo – a widely used payment processor - retries failed payments daily, which would therefore fail to meet the requirement to not re-attempt for at least 5 business days under proposed subsection 88(3). We again note that customers experiencing financial difficulty can request hardship arrangements under the FH Standard. **We recommend the removal of subsection 88(3).**

We also note that one business day to terminate a direct debit after a customer's request (under proposed subsection 87(7) is too short, particularly for small providers. We request this be extended to 3 business days.

Overlap with other regulatory schemes

In addition to the points raised above regarding the overlap with the FH Standard, we also note that subsection 83(3) overlaps with the unfair trading practices laws for subscription contracts. We understand that a separate regulatory instrument will prescribe timeframes and content of information to be provided in relation to a "subscription contract" which includes telecommunications services, and discounts that apply to the provision of a telecommunications service. **We recommend:**

- **subsection 83(3) be removed so as to avoid establishing duplicative, and potentially inconsistent customer notification requirements. We also note that consumers are experiencing notification fatigue and it is not in consumers' interest to overload them with duplicative information.**
- **at the least, subsection 83(3) be amended to specify that compliance under a different regulatory scheme will be taken to satisfy compliance with subsection 83(3).**

Third party charges

We are concerned about a provider's liability for issues outside of the provider's control. While we understand that where a provider bundles services, issues regarding charges for such services may be appropriately brought to the provider, there may be cases where the issue falls outside the scope, such as (but not limited to):

- where it relates to the third-party provider's cancellation terms that interact with charges.
- requests for rebate or refunds due to service quality or issues.

IAA recommends:

- **clearer provisions that specify what sort of customer enquiries and complaints are considered in-scope for the purposes of proposed section 85, including a definition of "third-party charges"**
- **the provisions of a safe harbour for providers that comply with the applicable rules under Division 2 of Part 6, and the Complaints Standard, but where a customer is unsatisfied with the result. This particularly relates to matters that are escalated to the TIO.**

- **including the disclaimer that is currently provided under the TCP Code (guidance note below clause 5.8.1) that the provider is not responsible for the content of the third-party services.**

PART 8 – CREDIT MANAGEMENT, DEBT MANAGEMENT AND DISCONNECTION

Consultation Q19 and Q20

The requirements under Part 8 are another area of priority concern for IAA that will disproportionately affect the small and medium providers we represent. We reiterate our in-principle support for the principle that disconnections should be a matter of last resort. However, we do not consider the drafting of Part 8 supports this principle through workable, proportionate obligations. The changes proposed under the TCP Standard, compared to the current arrangements under the TCP Code are substantial. One member estimates the cost of the changes needed to comply with the credit management requirements alone at more than $700,000 (including a buffer).

Notice sequence and cost to providers

We understand proposed sections 92 to 94 set out a three-notice sequence, with at least 20 business days between the first notice and the earliest disconnection. For a small and medium provider, this means funding every non-paying service for at least a month, as it still remains liable for payment to its wholesale provider. As discussed above in response to Part 1, the definition of "business days" may extend this period even further, exposing the provider to greater uncertainty and costs. We therefore consider the notice period being set in reference to business days as being unsuitable.

We emphasise that as reseller providers will still be liable to wholesale carriers for as long as the connection is provided, so extending the period under which a non-paying customer will need to remain connected greatly increases costs for these small and medium providers. According to one member, they expect the cost of bad debt write-offs to double or triple as a result of this extended period. Noting the limited profit margin of small and medium providers, this is a huge cost to challenger providers.

We note that the proposed notice period will sit on top of the existing requirements under the FH Standard which already sets out extensive rules to keep customers experiencing financial hardship connected, which become easily invoked as a result of the obligation to proactively identify customers affected by financial hardship under Part 3 of the FH Standard. The costs to providers are therefore compounded as it must also navigate parallel schemes under the proposed obligations and the FH Standard. Thus the consolidation of the overlapping regulation is of paramount importance.

Additionally, we consider the requirement for each of the second and third reminder notices to be given separately from a bill is unclear. For example, it is unclear if the drafting intends to prohibit a notice being sent in the same communication as a bill, or for a bill to be attached to a notice. If so, this would be inappropriate. It is in the consumer interest to be provided a copy of the bill, alongside any reminder notice for transparency and ease of reference, and avoid having separate communications for each of the bill and reminder notices. Separate further notices are likely to increase notification fatigue.

Additionally, IAA recommends that:

- **the minimum period be reduced to 15 calendar days, with five calendar days between each notice.**

- **the notice sequence to not apply to services that are paid in advance, and the "upfront service-only" exclusion provided in respect of credit assessments under Part 5 is extended to cover these provisions.**
- **sections 91 to 95 be subject to staged commencement, as discussed above in response to Part 1.**
- **the ACMA provides guidance on the interaction between the proposed obligations under Part 8 of the TCP Standard and the FH Standard.**
- **clarification that where a consumer has agreed to a restriction as part of an arrangement, the full notice sequence under proposed sections 92 to 94 does not apply.**
- **the ACMA clarify the intent of proposed subsections 93(4) and 94(4), and amend the subsections to allow a reminder notice to be sent in the same communication as a bill, provided the notice is prominent and clearly identifiable.**

Protected numbers and restricted services

As noted above in response to Part 1, the providers that are subject to the TCP Standard as the CSP cannot selectively preserve access to certain "protected numbers" or throttle data to a minimum download speed of 2Mbps in the way provisioned under proposed subsection 92(4). This is outside the control of reseller providers, and rather lies with the upstream carrier. A provider cannot comply with an obligation that its upstream vendor does not support. At this stage, it is also unclear the feasibility and costs for upstream carriers to implement changes so as to make this possible, or a net-benefit protection.

Moreover, it is not appropriate for the resellers to bear the liability for obligations that relate to network capabilities outside of its control. We reiterate that resellers have limited bargaining power so they cannot readily recover that cost from the upstream carrier if an error or fault on the carrier's side leaves a customer unable to reach a protected number, resulting in the provider being found in breach of the requirement.

Similarly, proposed subsection 93(7) which prevents a provider from suspending a telecommunication service from accessing emergency service numbers. This does not reflect the technical nature of services such as broadband internet or broadband communications generally, as broadband services can be used to contact emergency services through other VoIP service or apps using the broadband connection. It is unclear as to whether this subsection is intended to capture these broadband services.

We also reiterate our concerns raised above in response to Part 1 in relation to the definition of "suspension" which includes the exclusion of "access to emergency numbers" that causes complexity and uncertainty as to how this exclusion applies.

IAA recommends:

- **subsections 92(4) and 93(7) apply only where the provider supplies a voice or text service and has the technical capability, through its own network or its upstream supplier, to comply.**
- **the TCP Standard to provide an express safe harbour for resellers where a failure results from an upstream provider's capability, error or fault that results in the provider being in breach of subsections 92(4) or 93(7).**
- **the ACMA confirm that subsection 93(7) does not apply to broadband or other data-only services, and clarify its relationship to the definition of "suspension" which also**

provides access to emergency service numbers must be retained during a suspension period.

- **obligations that depend on upstream vendor capability not commence until that capability exists.**

Protected periods

Members have advised that they will find it difficult to promptly pause service limiting action during periods of natural disasters and public holidays, as required under proposed section 95. Service limiting actions are automated processes and any pauses are likely to require manual intervention, leaving greater room for error and exposes providers to risk of penalties.

It is also not always possible for a provider to know that a natural disaster is affecting a customer. For example, natural disasters such as bushfires and floods move and spread, sometimes within hours.

Furthermore this requirement has been vaguely drafted and gives rise to uncertainty as to (but not limited to):

- what counts as the "area" where a natural disaster is occurring.
- when a natural disaster should be considered to start and end.
- what authoritative source a provider should rely on to identify a natural disaster is occurring.
- whether a service limiting action that was taken before the protected period began will be considered a breach of this subsection, if the protected period starts while service limitation is in place.

Additionally, "protected period" is defined in reference to a natural disaster occurring in the area of the customer's billing address. However, where a customer's billing address differs from the service address, the proposed protection has limited benefit and is contrary to the regulatory intent. However, any amendment to define the term by reference to the customer's service address, would not be a definitive resolution, as the service address is not always known by a provider.

Accordingly, the requirement needs to be drafted with clear steps and safeguards, such as applying it only where the provider knew, or reasonably ought to have known, that a natural disaster was affecting the customer's area. IAA further recommends:

- **the requirement to not take any service limiting actions during protected period should only apply where the provider knew, or reasonably ought to have known that the customer was affected by a protected period.**
- **clearer drafting that sets out an authoritative source to identify a "natural disaster" that should be relied upon, a defined "area", when the protected period starts and ends, a reasonable period after the provider becomes aware of the protected period to pause or reverse service limiting action (as applicable in the circumstance).**
- **the ACMA provide a safe harbour where a provider acted in good faith and did not know, or could not reasonably have known, that a customer was in a protected period, including where it acted before a disaster was declared.**
- **the ACMA clarify that providers are not expected to track a customer's service location or whereabouts.**
- **section 95 be subject to staged commencement, so providers have time to set up necessary systems and processes to comply with this requirement, as amended.**

Restoration of services

We consider the proposal under proposed section 26 for a wrongful service limiting action, including disconnection to be restored within two business days as being unrealistic, particularly for services in remote areas. This is not appropriately covered by the exclusions in proposed subsection 96(3) where restoration may be possible but not necessarily within 2 business days.

We recommend:

- **amendment of subsection 96(3) to add a new paragraph (c) to include "restoration within 2 business days is not technically feasible or reasonably practicable"**
- **amendment of paragraph 96(3)(a) to "technically possible or practicable"**

Review of credit management decisions

In relation to proposed section 97, we consider a two-business days period to review a credit management decision as impracticable and unreasonable for small providers who operate with small teams. Many small and medium providers operate as sole-traders or with teams with less than 5 staff.

It is also unclear whether the timeframes in this section total two or four business days, given each of paragraphs 97(2)(b) and (d) specifies two business days. It is further unclear whether the 2 business days' timeframe specified in paragraph 97(2)(d) is triggered from the day the notice is sent under paragraph 97(2)(c), or some other period.

We also note that requirements surrounding communications overlaps and is potentially inconsistent with the DFSV Standard's requirements on agreed communications method. Hence we reiterate our request for the review and consolidation of the various consumer protections regulation.

We recommend:

- **clarification of the operation of proposed section 97, and the applicable timeframes.**
- **section 97 be scaled to allow small and medium providers longer periods to conduct a review, and to implement any resulting action.**
- **the ACMA to provide guidance and support material in respect of the review requirements, particularly with respect to how the provisions interact with DFSV Standard.**

Debt collection disputes

We are concerned that proposed section 98 introduces requirements surrounding debt collection disputes that will overlap with and duplicate the requirements in the Complaints Standard. We reiterate the cumulative regulatory burden on industry arising from complex, overlapping regimes, which is particularly disproportionately felt by small and medium providers. We are also concerned that the subsection 98(1) is vague and may lead to inconsistency across the industry, and expose providers to risk of being considered in breach of this requirement.

We are also concerned that the prohibition on selling or assigning a debt is too broad. Under proposed subsection 98(4), a provider must not sell or assign a debt if "any part" of it is the subject of an unresolved complaint. A small dispute about one charge would therefore prevent a provider from selling or assigning the whole debt. The prohibition should apply only to the amount that is in dispute.

IAA recommends that:

- **the ACMA clarify that section 98 does not itself trigger the complaints handling process, unless the customer complains about the provider's handling of the debt collection dispute.**
- **the ACMA to clarify that subsection 98(1) is not to duplicate the Complaints Standard.**
- **subsection 98(4) apply only to the part of a debt that is the subject of the unresolved complaint.**
- **the ACMA provide guidance, with worked examples, on handling debt collection disputes and how the TCP Standard interacts with the Complaints Standard, the FH Standard and other relevant regulation.**

Disputed defaults

We understand that subsection 99(1) applies where a customer has taken reasonable steps to pay a debt but payment fails because of the fault of the provider or a third party. The provider must then notify any credit reporting body within one business day if a default listing has occurred, ensure no additional charges apply, and ensure the customer suffers no further credit-related disadvantage.

However, it is unclear how a provider is expected to establish that a failed payment was caused by a third party. The provider cannot see into a bank's or payment processor's systems, so it usually has no means of verifying a third party's failure beyond what the customer advises. The drafting also does not say what steps are "reasonable" for a customer, or what evidence a provider may ask for or rely on. This creates a risk that providers are found in breach for a decision made in good faith on incomplete information, and a risk of customers being asked for evidence they cannot readily provide, which invokes proposed section 102 dealing with evidence and supporting material, and thereby causing greater complexity for providers.

The requirement to notify a credit reporting body within 1 business day in accordance with proposed paragraph 99(1)(a) is vague as to when that timeframe applies. It is unclear as to whether that timeframe is triggered from the date of failed payment, from when the customer advises the provider the failure was caused by a third party or provider, or from when the provider determined that the failure was indeed caused by a third party or itself.

Proposed section 99 also does not deal with what happens where, after enquiry, the provider reasonably determines that the payment was not caused by the provider, or a third-party. This can result in inconsistencies across the industry, and exposes providers to risk of being found to be in breach of the TCP Standard due to actions taken.

IAA recommends that:

- **the ACMA clarify what evidence a provider may rely on to determine that a failed payment resulted from a third party's fault, and what counts as "reasonable steps" by a customer.**
- **the ACMA provide a safe harbour where a provider acted in good faith on the information available to it.**
- **paragraph 99(1)(a) be amended so that the timeframe to notify a credit reporting body is triggered from when the provider becomes aware that the payment failed because of the fault of the provider or a third party, consistent with subsection 99(2).**
- **section 99 be amended to set out provisions to deal with actions that can be taken where a provider. after reasonable enquiry, determines that the failure was not caused**

by the provider or a third party, including that the provider may apply charges, maintain a default listing and continue credit management in accordance with Part 8.

PART 9 – RECORD KEEPING AND PRIVACY

IAA supports appropriate record keeping to enable compliance to be demonstrated. We are concerned that Part 9 creates tension with other obligations and adds undue cost for small and medium providers.

The proposed records that must be kept for a minimum of two years is extensive and increases privacy and security risks for consumers. While the minimum retention period is set to two years, in reality, providers will need to keep records for longer, especially to ensure they have sufficient records to cover any issues that may be raised to the TIO, which allows consumers six years to bring a complaint.

We also note that compliance records to satisfy section 102 necessitates the recording of personal information, especially given "personal information", is defined with reference to the broad definition given to the term under the *Privacy Act 1988* (**Privacy Act**). We consider requiring providers to de-identify records, even with the qualifier that only "where practicable", sets unreasonable and unclear expectations, and unfairly exposes providers to the risk of penalties, in the event a data breach occurs.

Furthermore, compliance with subsection 102(3) is made even more difficult as a result of paragraph 102(3)(b). As stated above with respect to corresponding exclusions, pushing the obligation to navigate complex legislative frameworks to identify where compliance under "another applicable law" will mean the requirement to not record personal information when keeping records does not apply in accordance with paragraph 102(3)(b) is unreasonable, and causes great complexity and confusion for providers.

IAA recommends that

- **subsection 102(3) be removed, given that personal information is already regulated under the Privacy Act, and section 103. At a minimum, it should be amended to confirm that a provider may keep personal information where it reasonably considers it necessary to demonstrate compliance, with ACMA to provide guidance on what is "reasonably necessary".**
- **paragraph 102(3)(b) should either list the "other applicable laws" that permit personal information to be kept, or be removed. At minimum, the ACMA should provide guidance of applicable laws that currently apply, and commit to updating any such guidance in a timely manner.**

COMPLIANCE AND ENFORCEMENT APPROACH

The IAA emphasises that the changes required under the proposed standard are substantial, and that industry, particularly small and medium-sized providers, will need significant assistance to understand and implement them. **In addition to the staged commencement approach recommended above, we ask the ACMA to formally commit to a graduated compliance approach for the first 12 months after the obligations come into effect.**

During this period, the ACMA's focus should be on education and awareness-raising, with penalties and enforcement action reserved for egregious breaches. We also ask the ACMA to work constructively with industry throughout this period and to engage actively with small and medium-

sized providers, supporting their compliance efforts such as through targeted workshops and the provision of guidance and other support materials. We note that this is the approach the Department of Home Affairs took in administering the *Security of Critical Infrastructure Act 2018* (Cth) following reforms of comparable significance and scale. We would appreciate the ACMA's commitment to this approach, which would help support meaningful compliance across the sector.

CONCLUSION

Once again, IAA appreciates the opportunity to contribute to the proposed *Telecommunications (Consumer Protections) Industry Standard*. We reiterate IAA and our members' support for strong, effective consumer protections. However, as outlined throughout our response, the TCP Standard as currently drafted imposes obligations that many providers, particularly, small and medium sized providers, cannot practicably implement. It also risks adverse outcomes for consumers, such as reduced competition and higher prices, which would undermine the ACMA's objectives.

We therefore urge the ACMA to commit to a co-design process through a multi-stakeholder working group to address the above-stated issues so that the final TCP Standard is both effective for consumers and workable for the industry, particularly smaller, challenger providers. IAA would welcome the opportunity to participate and represent small and medium sized providers to ensure a fit-for-purpose consumer protections regimen that appropriately strikes this balance.

ABOUT THE INTERNET ASSOCIATION OF AUSTRALIA

The Internet Association of Australia Ltd (**IAA**) is a not-for-profit 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.

IAA regularly engages with government and regulatory bodies on policy matters affecting the Internet industry. In particular, our advocacy efforts represent the small to medium sized internet service providers in Australia who are often disproportionately disadvantaged by law reform affecting the telecommunications sector. Our public policy work is guided by the following principles:

We stand for an internet for the common good

We stand for an open internet platform

We stand for measured, effective and practical regulation

IAA is also a licenced telecommunications carrier and provides the IX-Australia service to Corporate and Affiliate members on a not-for-profit basis. It is the longest running carrier neutral Internet Exchange in Australia. Spanning seven 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.