

List of provisions for inclusion in the *Telecommunications (Infringement Notice Penalties) Determination 2022*

Provision	Obligation	Rationale for Inclusion	Consumer Detriment
69(4)	A carrier must comply with a written direction requiring it to take specified action directed towards ensuring that it does not contravene a specified carrier licence condition.	Targets repeat non-compliance of the same requirement. Remedial directions provide significant enforcement capability for the ACMA.	Carrier licence conditions currently cover matters such as: - access to priority assistance for people with life threatening medical conditions - access to low-income products and services for people on low incomes - some matters related to network reliability.
102(4)	A service provider must comply with a written direction requiring it to take specified action directed towards ensuring that it does not contravene a specified service provider rule.	Targets repeat non-compliance of the same requirement. Remedial directions provide significant enforcement capability for the ACMA.	Service provider rules currently cover matters such as: - identity security and fraud protection of telco customers - provision of the 000 emergency call service.
121(2)	A provider must comply with a direction to comply with an industry code.	Targets repeat non-compliance. While the application of this provision may appear broad, it targets only those providers that are found to contravene the same provisions on multiple occasions.	Industry codes currently cover matters such as: - the Telecommunications Consumer Protection - the Integrated Public Number Database requirements, the outcome of which is making reliable information available to law enforcement and emergency services - aspects of Priority Assistance - number portability between carriage service providers - reducing scam calls or scam SMS.
128(1) ¹	A service provider must comply with industry standards.	Targets repeat non-compliance. Specific provisions from individual industry standards should be included (detailed below).	Industry standards currently cover matters such as: - complaints handling - identity security and fraud protection of telco customers - NBN consumer information and continuity of service.

¹ Note that the ACMA does not consider that section 128(1) should be included on the Infringement Notice Penalties Determination, rather specific provisions from individual standards should be listed, as detailed below.

ATTACHMENT A

Provision	Obligation	Rationale for Inclusion	Consumer Detriment
360P(1)	A Statutory Infrastructure Provider (SIP) must connect premises to qualifying network upon request.	Listing this requirement highlights that telecommunications services are essential and provides consumer protections to facilitate connectivity for all Australians.	This protection allows consumers to access a broadband service.
360P(12) (c) and (d)	SIP must provide written notice to CSP of any refusal to connect, and CSP must provide written notice to end-user.	Listing this requirement highlights that telecommunications services are essential and provides consumer protections to facilitate connectivity for all Australians.	This protection is designed to allow clarity for a consumer who has requested a connection but will not be provided one.
360Q(1)	SIP must supply eligible services to CSP upon request.	Listing this requirement highlights that telecommunications services are essential and provides consumer protections to facilitate connectivity for all Australians.	This protection creates the linkage between CSPs and SIPs, with the end goal that a consumer should be able to access a super-fast broadband service.
521(3)	A carrier or service provider must comply with a requirement under subsection 521(2) relating to written notices.	The provision of information under notice is key to the ACMA effectively performing its roles and functions.	Non-compliance with this provision means investigations are often drawn out. As a result, the consumer harm that the ACMA is seeking to mitigate is not resolved in a timely manner.
522(3)	A person must comply with a requirement under subsection 522(2) relating to written notices.	The provision of information under notice is key to the ACMA effectively performing its roles and functions.	Non-compliance with this provision means investigations are often drawn out. As a result, the consumer harm that the ACMA is seeking to mitigate is not resolved in a timely manner.
530	A carrier or carriage service provider must comply with applicable record-keeping rules.	Record-keeping and reporting rules are an important mechanism for ensuring service provider transparency. Including this provision would incentivise compliance, enabling the ACMA to assess the effectiveness of key consumer protections.	Failure to report against record-keeping rules means that the ACMA is unable to identify poorly performing service providers, which may hide ongoing consumer harms. For example, a failure to report against complaints RKR may hide a provider's ineffective complaints handling.
12EB(4)	A universal service provider must comply with a Determination made by the Minister for setting out performance standards for payphones.	Replicates provisions from previous Infringement Notice Penalties Determination.	Payphones are not available to the public.

ATTACHMENT A

Provision	Obligation	Rationale for Inclusion	Consumer Detriment
12EC(9)	A universal service provider must meet or exceed a benchmark set out in a Determination made by the Minister.	Replicates provisions from previous Infringement Notice Penalties Determination.	Standard telephone services do not meet minimum requirements for matters including reliability, connection and fault rectification.
130(2)	CSP must comply with direction to enter the TIO Scheme.	Targets repeat non-compliance by creating a financial disincentive to not joining the TIO Scheme.	Consumers cannot access external dispute resolution if they are unhappy with their telco's complaints process.
132	A provider must comply with the TIO Scheme.	<p>Compliance with the TIO Scheme may be incentivised by imposing a penalty that is greater than the maximum penalty payable under the scheme (\$100,000).</p> <p>A lower penalty amount may perversely incentivise non-compliance as it would be more cost effective to pay an infringement notice.</p> <p>High levels of compliance with the scheme should result in improved consumer outcomes.</p>	Consumers who have followed through the appropriate escalation process do not receive the resolution to which they are entitled.
187BA	CSPs must protect information that they are required to keep by encrypting the information and protecting it from unauthorised interference or access.	Access to customers personal information is likely to have significant, ongoing consequences, emphasising the importance of ensuring information is kept secure.	Personal information may be compromised resulting in identity theft.
13	A carriage service provider must provide fraud mitigation protections.	Including this provision would incentivise compliance and highlight the importance of this safeguard.	Customers who are at risk of fraud are not provided with appropriate mitigation protections by their telcos.
7(4)(a)	Where a customer enters a contract over the phone, the retail CSP must explain the information set out in the key fact sheet before they enter the contract.	Key provision for ensuring that all consumers are provided with relevant information, prior to entering a contract.	Consumers enter a contract for services that are not suited to their needs.
7(5)	Where a customer enters a contract over the internet, the retail CSP must direct the customer to a copy of the key fact sheet before they enter the contract.	Key provision for ensuring that all consumers are provided with relevant information, prior to entering a contract.	Consumers enter a contract for services that are not suited to their needs.

ATTACHMENT A

Provision	Obligation	Rationale for Inclusion	Consumer Detriment
7(6)	Where a customer enters a contract in-store, the retail CSP must direct the customer to a copy of the key fact sheet before they enter the contract.	Key provision for ensuring that all consumers are provided with relevant information, prior to entering a contract.	Consumers enter a contract for services that are not suited to their needs.
7(2)(a)	A legacy service must not be disconnected until testing indicates that the customer's NBN Service is operational.	This is the key provision within the standard that ensures that consumers, who are migrating to the NBN are not left without a service.	Customer has no access to telecommunications services.
7(1)	CSPs must establish and implement a complaint handling process.	The establishment and implementation of a complaints handling process, in accordance with the Complaints Handling Standard, underpins a broad range of telecommunications consumer protections by ensuring that consumers have a right to recourse if they experience problems with any of their telecommunications services. It is critical that telcos adhere to this rule.	Customers do not have a clear pathway to resolve matters when things go wrong.
8(1)(h)	Consumers must be able to make complaints by telephone, letter, email and online.	Incentive for providers to comply. Ensures that complaints process is accessible to all consumers.	Customers are not able to make a complaint using a method of communication with which they are comfortable or have access.
8(1)(i)	Consumers must be able to make complaints in store.	Incentive for providers to comply. Ensures that complaints process is accessible to all consumers.	Customers are not able to make a complaint using a method of communication with which they are comfortable or have access.
12(1)	A CSP must acknowledge a complaint and give the customer a reference number.	May improve efficacy of, or compliance with, complaints handling obligations as it disincentivises the practice of recording complaints as 'inquiries'. Provision of a reference number to a consumer clearly demonstrates that a complaint has been recorded.	Customers are unclear about the status of their complaint or able to follow its progress.

ATTACHMENT A

Provision	Obligation	Rationale for Inclusion	Consumer Detriment
20(a)	A CSP must keep records of the name and contact details of the consumer making the complaint, or their representative.	May improve efficacy of, or compliance with, complaints handling obligations as it disincentivises the practice of not recording complaints. Retention of contact details of complainants is key to ensuring that they are provided with updates on the progress of their complaint.	Customer's complaint not effectively managed or resolved.
7(2)	The NBN CSP must perform post-migration testing.	Key provision for ensuring that services that are not operational post migration are identified early and can be rectified quickly.	Customer's broadband services do not work.
9(1)	An interim service must be supplied to a customer by the NBN CSP.	Ensures that consumers are not left without essential telecommunications services.	Customers have no access to services.
10(1)	The cost of the interim service must not exceed the cost of the least expensive plan offered by the CSP.	Ensures that consumers are not financially disadvantaged.	Customers pay too much for services that are inferior to the NBN.
14(2)	The NBN CSP must confirm the maximum attainable speed of the customer's service.	Ensures that consumers are not paying for speeds they are unable to access.	Customers pay for speeds that they cannot receive.
14(3)	If relevant, the NBN CSP must move the customer to a lower speed plan.	Ensures that consumers are not paying for speeds they are unable to access.	Customers pay for speeds that they cannot receive.
15(1)	The NBN CSP must not charge a customer for a service that is not operational.	Ensures consumers are not required to pay if they do not have an operational service.	Customers pay for services that they cannot use.
8(2) and 8(5)	Mobile network operators must send information about supply of an IMR service.	Ensures that consumers are aware that higher charges may arise from international mobile roaming.	Customers do not understand the cost of using mobile services while overseas.
9(2)(a), 9(2)(b), 9(2)(c) 9(4), 9(5)	Mobile network operators who supply carriage services to another CSP must send information about supply of an IMR service.	Ensures that consumers are aware that higher charges may arise from international mobile roaming.	Service providers cannot provide customers with information about cost of services.

ATTACHMENT A

Provision	Obligation	Rationale for Inclusion	Consumer Detriment
10(2) and 10(5)	Mobile virtual network operators must send information about supply of an IMR service.	Ensures that consumers are aware that higher charges may arise from international mobile roaming.	Service providers cannot provide customers with information about cost of services.
11(2)	CSPs must provide maximum charge information to customers upon request.	Ensures that consumers are aware that higher charges may arise from international mobile roaming.	Customers do not understand the cost of services.
12(1) and 12(2)	CSPs must make available the means for customers to decline the continued supply of an IMR service.	Ensures that consumers can discontinue international mobile roaming.	Customers cannot turn off unwanted services.
2.3(1)	Identity verification requirements must be satisfied before a pre-paid service is activated.	These requirements are focussed on collecting a minimal level of identity information such that the owner/activator of a pre-paid service can be identified if, for example, law enforcement or emergency services need or would benefit from that information (subject to appropriate authorisations).	Services are activated in a customer's name fraudulently.
6.1(1) and (2)	CSP must keep records of prepaid services supplied by the CSP to allow assessment of the provider's compliance with the Prepaid Determination.	Key compliance requirement. A contravention of this provision effectively limits our ability to establish evidence of non-compliance with other provisions of the Prepaid Determination.	ACMA is unable to assess compliance, which may hide ongoing consumer harms.