

Submission

22 December 2023

Director, Codes and Standards Section
Consumer Safeguards Branch
Department of Infrastructure, Transport, Regional Development, Communications and the Arts
GPO Box 594
Canberra ACT 2601

Re: Discussion Paper: Carriage Service Provider (CSP) registration or licensing scheme for the telecommunications industry

The Australian Communications Consumer Action Network (**ACCAN**) thanks the Department of Infrastructure, Transport, Regional Development, Communications, and the Arts (**the Department**) for the opportunity to comment on the Discussion Paper: Carriage Service Provider (**CSP**) registration or licensing scheme for the telecommunications industry (**the Discussion Paper**).

ACCAN is the peak body that represents consumers on communications issues including telecommunications, broadband, and emerging new services. ACCAN provides a strong unified voice to industry and government as we work towards communications services that are trusted, inclusive and available for all.

ACCAN's submission has been informed by feedback from consumer and community organisations who regularly assist customers experiencing financial hardship with their telecommunications products and services, including Consumer Action Law Centre (**CALC**) and Redfern Legal Centre (**RLC**). ACCAN's submission has been endorsed by the Consumer Policy Research Centre (**CPRC**).

ACCAN supports the creation of a registration or licensing scheme (**RoLS**) for the telecommunications market. A RoLS would:

- Provide a central source of information that consumers can use to contact their CSPs.
- Provide market participants adequate notice regarding their compliance obligations.
- Reduce the time and resources spent pursuing CSPs for non-compliance with Telecommunications Industry Ombudsman (**TIO**) scheme membership and other regulatory obligations.
- Allow for information on key regulatory obligations to be provided to registrants at the time of registration, limiting inadvertent or unintentional non-compliance by CSPs.
- Provide an additional, more direct enforcement tool in the form of de-registration, for the Australian Communications and Media Authority (**ACMA**) to intervene in the event of egregious or repeated non-compliance.
- Provide the opportunity to introduce conditions requiring providers to implement and comply with policies and procedures to prevent risks and practices that cause consumer harm, including from fraudulent sales and scams.

- Reduce the financial and non-financial costs to consumers, as all CSPs would be required to demonstrate their ability to supply services in compliance with regulatory obligations.
- Provide reputational benefits to CSPs that consistently comply with the terms of the scheme.¹

ACCAN notes that in their submissions to the Consumer Safeguards Review Part C: Choice and Fairness, the Australian Competition and Consumer Commission (**ACCC**), ACMA, TIO and Consumer Action Law Centre (**CALC**) all supported the establishment of a RoLS.²

In ACCAN's view, a registration scheme represents an important component to ensure the telecommunications market works efficiently for all participants. However, the benefits and effectiveness of such a scheme would be significantly enhanced if it were established alongside the strengthening of enforcement arrangements, expanding the direct regulation of telecommunications consumer protections and increasing of penalties to deter CSP non-compliance. These complementary reforms are necessary to bring the telecommunications sector up to parity with consumer expectations of the regulation of essential services.

While ACCAN supports the implementation of a registration scheme in conjunction with broader reforms, a registration scheme alone will be insufficient to address the material consumer protection issues in the communications market. Registration will provide improved outcomes for consumers, but if undertaken in conjunction with broader reforms, it has the potential to drive material improvements for consumers. We note that in the absence of broader reforms, including the implementation of direct regulation and strengthening of enforcement and penalties arrangements, that a licensing regime would provide a framework for addressing these issues.

Please see **Attachment A** for our response to the questions set out by the Discussion Paper.

We thank the Department for the opportunity to comment on the Discussion Paper. Should you wish to discuss any of the issues raised in this submission further, please do not hesitate to contact me at: con.gouskos@accan.org.au.

Yours sincerely,

Con Gouskos

Policy Officer

¹ ACCAN. 2023. *Retail Registration Policy Position*. p.3. Available at: <https://accan.org.au/accans-work/policy-positions/2067-retail-registration>.

² ACCC. 2020. *ACCC submission to Part C of the Consumer Safeguards Review*.; ACMA. 2020. *ACMA Submission to Consumer Safeguards Review*; TIO. 2020. *Submission to the Consumer Safeguards Review Part C*.; Consumer Acton Law Centre. 2020. *Telecommunications Consumer Safeguards Part C: Choice and Fairness*.; All submissions are available at: <https://www.infrastructure.gov.au/have-your-say/consumer-safeguards-review-consultation-part-c-choice-and-fairness>.

Attachment A. Response to questions

Question 1. Do you think a CSP registration or licensing scheme should be implemented in the telecommunications sector and what are the key arguments for and against?

ACCAN strongly supports the implementation of a CSP RoLS in the telecommunications sector. A RoLS would centralise information on market participants, facilitate more effective enforcement and compliance actions and assist in educating providers about their obligations.³

Consolidating information on CSPs as part of a RoLS would give the ACMA greater visibility over the telecommunications sector.⁴ The lack of a comprehensive register for CSPs creates significant administrative challenges for regulators, industry bodies and the TIO.⁵ A RoLS would help mitigate the opportunities for consumer harms, including those caused by scams and other fraudulent CSP activities.⁶ The implementation of a RoLS would also 'promote greater consumer confidence in the sector and in the overall telecommunications consumer safeguards framework' according to the ACCC.⁷

While it could be argued that a RoLS would result in increased regulatory costs for industry and government, ACCAN believes that these costs would be offset through material reductions in the regulatory and administrative costs faced by the TIO, ACMA and Communications Compliance (**CommCom**) as a result of its establishment.⁸ Further benefits would be derived from consumer harms mitigated through the establishment of an RoLS.⁹

In ACCAN's view the establishment of a RoLS would in have limited effect on the competitiveness of the telecommunications market, as evidenced by the expansion seen in other essential service markets such as energy, banking and finance with similar schemes or requirements. Additionally, the presence of a RoLS in the telecommunications market may discourage potentially disingenuous market participants from market entry.¹⁰

Question 2. Are current issues with transparency and enforcement (as raised by stakeholders) substantial enough to warrant the creation of a registration or licensing scheme, and do these outweigh possible impacts (for example, any barriers to market entry and competition impacts)?

There are currently four incomplete lists of telecommunications market participants. These include:

- Communications Compliance (CommCom) – which collects annual attestation certifications from CSPs confirming their compliance with the Telecommunications Consumer Protection Code (TCP Code) and publishes them on the CommCom website;¹¹
- Telecommunications Industry Ombudsman (TIO) – which maintains a searchable register of its members;¹²

³ ACCAN. 2023. *Retail Registration Policy Position*. Available at: <https://accan.org.au/accans-work/policy-positions/2067-retail-registration>.

⁴ Ibid. p.3.

⁵ Ibid. p.2.

⁶ Ibid. p.2.

⁷ ACCC. 2020. *ACCC submission to Part C of the Consumer Safeguards Review*. p.10. Available at: <https://www.infrastructure.gov.au/have-your-say/consumer-safeguards-review-consultation-part-c-choice-and-fairness>.

⁸ ACCAN. 2020. *Consumer Safeguards Review Part C / Choice and Fairness*. p.20. Available at: <https://accan.org.au/our-work/submissions/1804-csr-partc>.

⁹ Ibid.

¹⁰ ACCC. 2020. *ACCC submission to Part C of the Consumer Safeguards Review*. p.11. Available at: <https://www.infrastructure.gov.au/have-your-say/consumer-safeguards-review-consultation-part-c-choice-and-fairness>.

¹¹ Communications Compliance Ltd. 2023. *Compliance*. Available at: <https://commcom.com.au/compliance/>.

¹² Telecommunications Industry Ombudsman. 2023. *Who we work with*. Available at: <https://www.tio.com.au/members/who-we-work-with>.

- ACMA – which maintains a list of statutory infrastructure providers (SIPs) and their relevant service areas,¹³ and
- Communications Alliance – which maintains a list of CSPs that have registered with them.¹⁴

These overlapping lists place an unwarranted administrative strain on government and industry in cataloguing CSPs and undertaking enforcement action.¹⁵ For example, the lack of a comprehensive RoLS prevents consumers whose CSPs fail to join the TIO scheme from accessing immediate dispute resolution.¹⁶ Industry and regulators would see efficiency improvements through the consolidation of the four existing, incomplete schemes into a RoLS. As mentioned above, ACCAN does not consider that consolidating the existing framework under a RoLS would be a significant barrier to market entry for genuine market participants.

ACCAN considers that the lack of a comprehensive RoLS ‘creates difficulties for the ACMA in ensuring all phone and internet service providers are aware of and are following their regulatory obligations’, leading to the inefficient regulation of an essential service.¹⁷ Due to the lack of a RoLS scheme in the telecommunications market, the ACMA must attempt to regulate a market in an unacceptable set of circumstances where it is unsure of the total number of participants and must try to monitor compliance by service providers of which it is not even aware.¹⁸

Telecommunications has become an essential service for Australians. It is fundamental, therefore, that for an effective telecommunications market to meet consumer expectations it must include a comprehensive register of market participants.¹⁹ ACCAN agrees with the Discussion paper that the ACMA, as the telecommunications regulator, should have the power and authority to hold an accurate and up to date list of participants in the market it regulates.²⁰ The ACMA has indicated that its ‘ability to effectively enforce telecommunications consumer protection rules in a post-2020 environment is compromised by the absence of a registration mechanism for retail CSPs’.²¹

It is imperative to establish a strong forward looking RoLS to help address the current and future compliance and enforcement challenges of telecommunications sector. ACCAN does not consider that establishing an RoLS would be a significant barrier to market entry for genuine market participants who seek to compete in the offering of communications services and provide value to consumers. The lack of a comprehensive RoLS incurs costs currently borne by industry and regulators, in the form of increased administrative costs, and by consumers, in the form of vulnerability to undesirable trading practices by ingenuine market participants. The telecommunications sector has recently ranked as the least trusted sector in the Australian economy

¹³ Australian Communication and Media Authority. 2023. *SIP Register*. Available at: <https://www.acma.gov.au/sip-register>.

¹⁴ Communications Alliance. 2023. *Consumer Related Codes and Guidelines*. Available at: <https://www.commsalliance.com.au/Documents/Publications-by-Topic/consumers>.

¹⁵ ACCAN. 2023. *Retail Registration Policy Position*. p.1. Available at: <https://accan.org.au/accans-work/policy-positions/2067-retail-registration>.

¹⁶ *Ibid.* p.2.

¹⁷ ACCAN. 2020. *Consumer Safeguards Review Part C / Choice and Fairness*. p.19. Available at: <https://accan.org.au/our-work/submissions/1804-csr-partc>.

¹⁸ Consumer Acton Law Centre. 2020. *Telecommunications Consumer Safeguards Part C : Choice and Fairness*. p.26. Available at: <https://consumeraction.org.au/telecommunications-consumer-safeguards-choice-and-fairness/>.

¹⁹ This is supported by the ACMA in their submission to the Consumer Safeguards Review Part C Choice and Fairness; ACMA. 2020. *ACMA Submission to Consumer Safeguards Review*. p.16. Available at: <https://www.infrastructure.gov.au/have-your-say/consumer-safeguards-review-consultation-part-c-choice-and-fairness>.

²⁰ DITRCA. 2023. *Registration or Licensing Scheme for Carriage Service Providers – Discussion Paper*. p.9. Available at: <https://www.infrastructure.gov.au/department/media/publications/discussion-paper-registration-or-licensing-scheme-carriage-service-providers>.

²¹ ACMA. 2020. *ACMA Submission to Consumer Safeguards Review*. p.16. Available at: <https://www.infrastructure.gov.au/have-your-say/consumer-safeguards-review-consultation-part-c-choice-and-fairness>.

by Roy Morgan.²² This may be partially attributable to consumers' interactions with non-compliant market entrants who are not adequately captured by existing administrative processes. ACCAN considers that the costs associated with the creation of a RoLS will be significantly outweighed by improvements in administrative efficiency for government and industry, in addition to the reduction in harm experienced by consumers.

Question 3. What information or assessments should be required at the point of registration?

A RoLS should request the following details from market participants:

- Business details (e.g. legal status, business address, contact details, contact person, trading name/s), sufficient to clearly identify the business and associated entities.
- An acknowledgement of, and agreement to comply with, relevant codes and standards (including the TCP Code, various industry codes, and the CommCom attestation scheme).
- Evidence of TIO membership, or evidence of exemption.²³
- A description of the services to be provided (e.g. broadband, mobile, fixed voice).
- Details for a single contact point within the CSP for registration, and an agreement to keep contact details up to date within a certain period of time. For example: 28 days, as per Australian Securities and Investments Commission requirements.²⁴
- Evidence of a risk management strategy.

The ACMA should be given powers to expand the list of details requested from market participants, subject to standard consultation processes.

ACCAN does not consider that the provision of organisational and technical capacity and financial resources information upon the point of registration constitutes an unnecessary burden on CSPs nor creates an unwarranted barrier to market entry. Prior to entry to the telecommunications market, providers should be required to submit information to the ACMA, demonstrating that they have the capacity to provide communications services to consumers. This would assist the ACMA in preventing consumer harm caused from providers who may be unable to meet the necessary obligations of market participation including compliance with 'basic consumer safeguards'.²⁵ Additionally, the TIO has noted that consumer harm has been caused by providers who do not have the capacity or administrative resources to fulfill their obligations to consumers.²⁶ This can be prevented through the provision of specific information to the regulator which demonstrates that a provider can adequately meet its obligations to consumers.

In support of the establishment of a RoLS, the ACCC noted that in the energy sector, retailers must demonstrate their organisational and technical capacity, financial capacity, and suitability prior to authorisation and subsequent supply of services to consumers.²⁷ The ACMA has noted that the 'ease

²² Roy Morgan. 2023. *Telecommunications industry overtakes social media as the most distrusted industry*. Available at: <https://www.roymorgan.com/findings/9193-risk-monitor-telco-most-distrusted-industry-2023>.

²³ ACCAN notes that the requirement for a provider to belong to and comply with the TIO scheme as a condition of entry to the registration scheme was mentioned in the TIO's Telecommunications Consumer Safeguards Part C: Choice and Fairness submission; TIO. 2020. *Telecommunications Consumer Safeguards Part C: Choice and Fairness*. p.24. Available at: <https://www.tio.com.au/about-us/consumer-safeguards-review>.

²⁴ ACCAN. 2023. *Retail Registration Policy Position*. p.2. Available at: <https://accan.org.au/accans-work/policy-positions/2067-retail-registration>.

²⁵ ACCC. 2020. *ACCC submission to Part C of the Consumer Safeguards Review*. p.10. Available at: <https://www.infrastructure.gov.au/have-your-say/consumer-safeguards-review-consultation-part-c-choice-and-fairness>.

²⁶ TIO. 2020. *Submission to the Consumer Safeguards Review Part C*. p.22. Available at: <https://www.infrastructure.gov.au/have-your-say/consumer-safeguards-review-consultation-part-c-choice-and-fairness>.

²⁷ ACCC. 2020. *ACCC submission to Part C of the Consumer Safeguards Review*. p.11. Available at: <https://www.infrastructure.gov.au/have-your-say/consumer-safeguards-review-consultation-part-c-choice-and-fairness>.

of entry to market for telecommunications service providers differs markedly from other essential services sectors such as banking, energy and financial services, where licensing or authorisation schemes are commonplace'.²⁸ ACCAN considers that the telecommunications sector, as a comparable essential service, should adopt this framework to ensure that providers who deliver services to consumers demonstrate they are able to fulfill consumer expectations for service delivery.

These details are likely already provided to an authority in one of the four existing schemes. Additionally, existing, and prospective market entrants would be made aware of the information requirements associated with any proposed RoLS significantly before its implementation, providing them the necessary time to gather this information in preparation for the establishment of a RoLS.

As part of the information provided to the ACMA upon market entry, the RoLS should establish that a director has not 'previously been found responsible for repeated, egregious breaches of consumer protection rules'.²⁹ ACCAN considers that the ACMA should be afforded the power to ban individual CSP directors from participating in the provisions of telecommunications services, where they have demonstrated a history of non-compliance with consumer safeguards legislation.

ACCAN also considers that it would be inefficient for the regulator to be tasked with sourcing a providers' RoLS details in place of industry participants periodically providing this information to the regulator.

Question 4. What other harmful activities could potentially be disrupted through registration?

A RoLS that is well-integrated with existing processes and further regulatory frameworks under consideration, could assist in preventing the high losses and harm from scams that have been facilitated via telecommunications services.³⁰ A RoLS will help prevent current and future market participants from operating under the radar and evading regulatory oversight. Introducing conditions requiring providers to implement and comply with policies and procedures would further strengthen protections and prevent inadequate responses from providers in relation to scams. These conditions could also be expanded to discourage other practices that cause significant consumer harm, including from fraudulent sales that often push vulnerable consumers into financial hardship after being sold expensive telecommunication plans and products that they cannot afford.

A RoLS scheme may also assist the regulator in educating CSPs on their responsibilities, ensuring that fewer CSPs unintentionally engage in harmful behaviour as a result of being unaware of their responsibilities.³¹ ACCAN considers that the RoLS has an important educative purpose in ensuring smaller market participants are aware of the regulatory settings of the telecommunications sector.

²⁸ ACMA. 2020. *ACMA Submission to Consumer Safeguards Review*. p.16. Available at: <https://www.infrastructure.gov.au/have-your-say/consumer-safeguards-review-consultation-part-c-choice-and-fairness>.

²⁹ ACMA. 2020. *ACMA Submission to Consumer Safeguards Review*. p.16. Available at: <https://www.infrastructure.gov.au/have-your-say/consumer-safeguards-review-consultation-part-c-choice-and-fairness>.

³⁰ Treasury and the Department of Infrastructure, Transport, Regional Development, Communications and the Arts. November 2023. *Scams – Mandatory Industry Codes, Consultation paper*. Available at: <https://treasury.gov.au/consultation/c2023-464732>

³¹ TIO. 2020. *Submission to the Consumer Safeguards Review Part C*. p.22. Available at: <https://www.infrastructure.gov.au/have-your-say/consumer-safeguards-review-consultation-part-c-choice-and-fairness>.

Question 5. Which CSPs should be required to register, and what are the advantages or disadvantages of different approaches?

A RoLS should be inclusive of all telecommunications market participants and no exemptions for registration should exist as part of a RoLS. Excluding some CSPs from participating in a RoLS would be counterintuitive to this objective. Should the RoLS not include all telecommunications market participants, it risks replicating the weaknesses of the status quo. Under the same logic, ACCAN also considers that CSPs should be prohibited from selling on their services to third parties unless those third parties are also registered under the RoLS.

Question 6. How could a registration scheme best integrate with existing obligations and processes?

A RoLS should include effective integration and information sharing between the ACMA and:

- The TIO.
- CommCom.
- Commpete.
- Communications Alliance.

Currently, there is ‘no way for the TIO to ensure all eligible phone and internet service providers are members of the TIO external dispute resolution (EDR) scheme’.³² A registration scheme should, by default, include evidence of TIO and CommCom membership to facilitate dispute resolution and compliance outcomes more effectively.³³ This would ensure that new CSPs are aware of the avenues to genuinely participate in the telecommunications market from the outset of their service provision.

A RoLS would:

- Improve the TIO’s visibility of the telecommunications market.
- Improve the TIO’s compliance and dispute resolution activities.
- Ensure that more providers are required to become TIO members, leading to more consumers having access to the dispute resolution service the TIO provides.

ACCAN considers that integrating membership to the TIO into a RoLS would support industry participants meeting the obligations the TIO may place on them as part of its dispute resolution scheme.³⁴

Ensuring that membership and full compliance with CommCom’s attestation scheme is a prerequisite of participation in a RoLS would improve CommCom’s ability to request compliance attestation statements from a wider range of providers, some of which it may not have previously been able to interact with. ACCAN considers that an RoLS will improve CommCom visibility of market

³² ACCAN. 2020. *Consumer Safeguards Review Part C / Choice and Fairness*. p.19. Available at: <https://accan.org.au/our-work/submissions/1804-csr-partc>.

³³ Requirement of TIO membership as a prerequisite of RoLS membership was suggested by the Consumer Action Law Centre in their submission to Consumer Safeguards Review Part C / Choice and Fairness; Consumer Action Law Centre. 2020. *Telecommunications Consumer Safeguards Part C : Choice and Fairness*. p.26. Available at: <https://consumeraction.org.au/telecommunications-consumer-safeguards-choice-and-fairness/>.

³⁴ ACCC. 2020. *ACCC submission to Part C of the Consumer Safeguards Review*. p.10. Available at: <https://www.infrastructure.gov.au/have-your-say/consumer-safeguards-review-consultation-part-c-choice-and-fairness>.

participants strengthening their ability to request attestation and identify compliance issues more rapidly.

Finally, the department should consider the transitional arrangements needed to establish a RoLS. ACCAN supports the transitional arrangements suggested in the ACMA's submission to the Consumer Safeguards Part C Review Choice and Fairness.³⁵ ACCAN considers it is appropriate to allow six months for CSPs to apply for registration once the RoLS has begun operation.³⁶ ACCAN judges it appropriate that all existing TIO and CommCom members who are registered under the existing lists operated by these bodies be automatically registered in any new RoLS.

Question 7. What processes could be used to ensure and maintain a rigorous list of CSPs?

An annual renewal of CSP registration is an appropriate renewal timeframe which does not place an unnecessary or unwarranted burden on industry participants or the ACMA.

ACCAN considers that:

- CSPs who provide services without registering to the RoLS should face directly enforceable civil penalties.
- CSPs should only be allowed to exercise their contractual access rights if they are registered under a RoLS.

The combination of these instruments ensures that CSPs seeking to skirt genuine market participation are penalised for their actions and barred from receiving revenue from customers. The presence of one instrument without the other does not effectively incentivise CSPs to register with a proposed RoLS.

ACCAN suggests that a visible registration certification accompany the development of a RoLS. CSPs would be required to include evidence of their participation in the RoLS in their marketing or on their website similarly to the existing visibility of Australian Business Numbers. This would ensure consumers have an easily accessible way of recognising whether their CSP is compliant with the scheme and assist the ACMA in monitoring compliance.

Additionally, should the details provided to the ACMA not materially change in the renewal period, CSPs should be able to lodge a short attestation document confirming reregistration with the scheme to decrease their compliance responsibilities. This should be completed using an online form to increase the speed and reliability of the process. To ensure increased regulatory certainty, providers should be required to indicate as far as possible in advance to the ACMA if they wish to cease trading.

³⁵ ACMA. 2020. *ACMA Submission to Consumer Safeguards Review*. p.19 Available at: <https://www.infrastructure.gov.au/have-your-say/consumer-safeguards-review-consultation-part-c-choice-and-fairness>.

³⁶ *Ibid.* p.23.

Question 8. What factors should be considered before deregistering a CSP, and what alternatives should the ACMA consider?

ACCAN considers that the telecommunications market should not operate without a mechanism to ‘effectively and quickly stop a CSP from trading, or prevent it from re-entering the market, where it has engaged in repeated or egregious non-compliance with relevant consumer safeguards’.³⁷

ACCAN notes that the ability for a regulator to suspend or revoke a license is available in the energy sector.³⁸ Providing this power to the ACMA would strongly incentivise appropriate industry behaviour. There should be appropriate consideration given to which consumer protections breaches are liable to result in deregistration under the proposed scheme. ACCAN supports the Department’s perspective that ‘the power to remove CSPs improves the robustness and quality of the registration scheme by setting a benchmark to operate in the telecommunications sector’.³⁹

ACCAN agrees with the Discussion Paper’s framing of deregistration, that ‘Deregistering a CSP would be a measure of last resort and the ACMA would be expected to have exhausted all reasonable enforcement and compliance approaches, and be satisfied to a high degree of certainty that the circumstances warrant such a significant regulatory intervention’.⁴⁰ However, the bar for deregistration should not be set too high in circumstances of egregious or repeated non-compliance (including for breaches of disconnection rules), particularly in the absence of higher directly enforceable penalties. Rather than a requirement to ‘be satisfied to a high degree of certainty,’ the ACMA should only have to be ‘satisfied’ that circumstances warrant significant regulatory interventions such as deregistration.⁴¹ ACCAN considers that providers who have demonstrated sustained or repeated failure to comply with the requirements of the scheme, for example, failure to join the TIO, should be considered for deregistration.

There should be more clarification provided prior to the establishment of a RoLS regarding the differences between the refusal of re-registration and the deregistering a market participant. The Department should consider how the ACMA should approach denying re-registration to a provider. The Department should give appropriate consideration to the processes required if a participant registered under a RoLS indicates to the regulator they wish to be deregistered and the appropriate procedure in this instance.

Question 9. How can deregistration be best leveraged to facilitate compliance and enforcement of existing regulatory obligations?

ACCAN believes that the process through which a CSP should be considered for deregistration should occur outside of the existing framework of formal warnings, directions to comply and penalties afforded to the ACMA under the *Telecommunications Act 1997 (Cth)* and warrants the creation of a separate enforcement pathway. ACCAN supports the TIO’s call for further reforms and for the ACMA to be provided with a ‘broader and more flexible regulatory toolkit’, including the

³⁷ DITRDCA. 2023. *Registration or Licensing Scheme for Carriage Service Providers – Discussion Paper*. p.15. Available at: <https://www.infrastructure.gov.au/departments/media/publications/discussion-paper-registration-or-licensing-scheme-carriage-service-providers>.

³⁸ Consumer Acton Law Centre. 2020. *Telecommunications Consumer Safeguards Part C : Choice and Fairness*. p.32. Available at: <https://consumeraction.org.au/telecommunications-consumer-safeguards-choice-and-fairness/>.

³⁹ DITRDCA. 2023. *Registration or Licensing Scheme for Carriage Service Providers – Discussion Paper*. p.17. Available at: <https://www.infrastructure.gov.au/departments/media/publications/discussion-paper-registration-or-licensing-scheme-carriage-service-providers>.

⁴⁰ Ibid p.15.

⁴¹ Ibid p.15.

creation of directly enforceable fines and penalties for breaches to existing consumer protections which would act to support a registration scheme by incentivising compliance and good practice.⁴²

Placing deregistration at the end of the existing compliance framework consisting of issuing warnings or directions to comply before infringement notices or penalties can be considered by the regulator would significantly diminish its effectiveness as a deterrent. ACCAN agrees with the ACCC that the ability to swiftly remove a provider from the telecommunications sector would serve as a more effective disincentive to consumer harm than a monetary penalty in many circumstances.⁴³

Conversely, fines and penalties would need to be revised to an amount high enough to act as a sufficient deterrent, especially for larger providers with a high number of customers, where deregistration would not be a realistic option. The Australian energy sector's penalty reforms have raised, segmented, and indexed to inflation penalty amounts in addition to tying penalties to the revenue of providers.⁴⁴ It is critical to ensure that the process for deregistration be responsive and streamlined to address a variety of instances of consumer harm.

ACCAN believes that for deregistration to be effective, an annual renewal of registration should accompany a RoLS. The director of the participating CSP should have an option to submit an adherence statement to confirm valid registration for the year. ACCAN believes that this registration renewal process will streamline the re-registration process for established CSPs, improve enforcement outcomes and lessen the administrative cost of the RoLS.

Question 10. What transparency and review measures should be implemented?

ACCAN considers that the list of CSPs present in the proposed RoLS should be made public on the ACMA website. This would ensure that consumers have visibility over the participants in the telecommunications market. The public CSP list should be reviewed annually and CSPs should submit a yearly attestation of re-registration with any accompanying relevant documentation.

Additionally, a public list would provide consumers with a clear path through which to contact their CSPs. This list could be shared with the TIO and require the provision of a telecommunications provider's full contact details, including a phone, postal and email address for customers to easily contact their providers, including clear points of contact for customers to lodge internal dispute resolution (IDR) complaints. The list should also include any alternate trading names, associated entities and agents of the provider to assist customers easily identify the relevant provider. This information could be presented to consumers in a clear and consistent way in a similar manner to that required of financial service providers via the Australian Financial Complaints Authority's website. ACCAN considers that the following details, at minimum be provided as part of the publicly available RoLS register:

- RoLS member status.
- Carrier License holder status.
- A staffed Customer Service Phone Number.
- Website Address.
- Address.

⁴² TIO. 2020. *Submission to the Consumer Safeguards Review Part C*. p.20. Available at: <https://www.infrastructure.gov.au/have-your-say/consumer-safeguards-review-consultation-part-c-choice-and-fairness>.

⁴³ ACCC. 2020. *ACCC submission to Part C of the Consumer Safeguards Review*. p.11. Available at: <https://www.infrastructure.gov.au/have-your-say/consumer-safeguards-review-consultation-part-c-choice-and-fairness>.

⁴⁴ AER. 2021. *Stronger penalties demand energy businesses prioritise compliance with the law*. Available at: <https://www.aer.gov.au/news-release/stronger-penalties-demand-energy-businesses-prioritise-compliance-with-the-law>.

- The providers' internal dispute resolution email address.
- A basic description of the services provided to consumers.

ACCAN considers that the ACMA should have the ability to expand or modify this list based on community expectations, subject to standard consultation processes.

Question 11. What would be the advantages or disadvantages of establishing a mechanism to remove CSPs with a history of non-compliance without also having a complementary registration scheme?

ACCAN considers that there are no substantial advantages to establishing a mechanism to deregister CSPs without also having the establishment of an RoLS. The establishment of a RoLS and the establishment of a mechanism to remove CSPs with a history of noncompliance should be developed in unison. A RoLS without a deregistration mechanism would lack the effective regulatory and compliance mechanisms that consumers require to counter non-compliant conduct. A removal mechanism without a RoLS would also not realise the significant gains in administrative efficiency present in the establishment of a RoLS.

ACCAN does not believe that the existing lists present in the telecommunications sector should be improved upon as a substitute for a comprehensive RoLS administered by the ACMA. Improving upon the existing lists does not improve the effectiveness and efficiency of the sector's administrative and enforcement processes nor address the consumer harms outlined above.

The Australian Communications Consumer Action Network (ACCAN) is Australia's peak communication consumer organisation. The operation of ACCAN is made possible by funding provided by the Commonwealth of Australia under section 593 of the Telecommunications Act 1997. This funding is recovered from charges on telecommunications carriers.

ACCAN is committed to reconciliation that acknowledges Australia's past and values the unique culture and heritage of Aboriginal and Torres Strait Islander peoples. [Read our RAP](#)
