

February 2025

## UPDATE

### Scam Prevention Framework and CSP Register

#### Scam Prevention Framework

In September last year Treasury consulted on exposure drafts of the Scam Prevention Framework (SPF) legislation. A modified version of that legislation is currently before Parliament, the [Scams Prevention Framework Bill 2024](#). The Senate Economics Legislation Committee [reported](#) on 3 February 2025 recommending that the legislation be passed with additional recommendations expressed by the Coalition, Senator Pocock and the Greens.

#### Key Features of the SPF

The SPF requires regulated entities to implement systems and processes to prevent scams. The new law applies “overarching principles” to all regulated entities:

- **Governance:** Entities must develop and implement policies, procedures, metrics, and targets to combat scams, and these must be certified annually by a senior officer.
- **Prevention:** Entities must take reasonable steps to prevent scams, including providing resources to consumers and warning those at higher risk.
- **Detection:** Entities must take reasonable steps to detect scams, including identifying impacted consumers in a timely way.
- **Reporting:** Entities must report actionable scam intelligence to the SPF general regulator and, upon request, provide scam reports to the relevant regulator.
- **Disruption:** Entities must take reasonable steps to disrupt scams and prevent losses, including sharing information with consumers and the SPF general regulator.
- **Response:** Entities must have accessible mechanisms for consumers to report scams and an accessible internal dispute resolution (IDR) process and must be members of an authorised external dispute resolution (EDR) scheme.

The Minister can designate sectors to be regulated by the framework, considering scam activity, industry initiatives, consumer interests, and potential consequences. The framework initially targets telecommunication providers, banks, and digital platforms, but can be made to apply to other sectors. The Minister may make sector-specific codes (**SPF codes**) that must be consistent with the overarching principles and may include specific provisions about governance, prevention, detection, disruption, and response. The codes will provide minimum standards for each sector that can be adapted to address sector-specific harms.

The ACCC is the general regulator (SPF general regulator) responsible for monitoring and enforcing compliance with the overarching principles. Other entities can be designated as sector regulators to monitor and enforce compliance with SPF codes.

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A 'safe harbour' provision protects entities from civil liability when taking reasonable actions to disrupt a suspected scam. The framework enables the sharing of information about scams between regulated entities and SPF regulators and between SPF regulators to facilitate disruptive action.

**Definition of a Scam:** A scam is defined as an attempt, direct or indirect, to deceive an SPF consumer that would, if successful, cause loss or harm. It includes attempts to deceive consumers into taking an action using a regulated service, or that is made using the regulated service. This definition includes both successful and unsuccessful attempts, aiming to ensure that the regulated entities address scams at all stages.

**SPF Consumers:** An SPF consumer is defined as a natural person in Australia, or ordinarily a resident of Australia, or an Australian citizen or permanent resident, or a small business with less than 100 employees and a principal place of business in Australia.

### **Penalties and liability for Scam related losses**

Regulated entities can be liable for damages resulting from not following the SPF guidelines and a court can make orders to compensate a victim of a scam. Failure to comply with the SPF principles and codes may result in civil penalties. The SPF general regulator, or the SPF sector regulator can monitor and investigate compliance and issue infringement notices. A tiered penalty regime is proposed, with higher penalties for more significant breaches.

## **Minister announces Carriage Service Provider register**

On **21 January 2025** Telecommunications Minister Michelle Rowland announced that the government would proceed to create a carriage service provider (**CSP**) register. Currently, unlike telecommunications carriers, CSPs are not subject to any formal registration or licensing requirements.

The stated intent of the framework is to increase visibility of CSPs operating in the market in order to assist the Australian Communications and Media Authority (**ACMA**) educate providers about their obligations, targeting enforcement activities and provide the ACMA with an effective mechanism to stop CSPs that pose unacceptable risks to consumers, or cause significant consumer harm, from operating.

The Department of Infrastructure issued discussion paper on the proposed scheme in September 2023 suggesting a 'light touch' approach to registration including low costs and effort for CSPs to register, integration with existing obligations such as joining the Telecommunications Industry Ombudsman (TIO) scheme, no new rules for dealing with customers, inclusion of transparency, appeal, and review mechanisms, ACMA to have the power to deregister CSPs or refuse registration in limited circumstances, (such as for 'phoenixing' activity or repeated failures to meet regulatory obligations). The scheme is expected to include requirements that enable identification of the legal entity, management, and ownership of a CSP to allow the ACMA to assess the suitability of directors or other senior staff, particularly if they have a history of breaches.

The scheme may apply only to CSPs covered by the TIO framework and may include obligations on carriers to verify the registration of CSPs they engage, penalty and deregistration powers to enforce compliance.

**Please contact me if you have any questions regarding the matters discussed in this update. [patrick@patrickfair.com](mailto:patrick@patrickfair.com) 0411361534. You can subscribe to updates like this one at [www.patrickfair.com](http://www.patrickfair.com)**