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UPDATE

New law introduces mandatory CSP registration and direct enforcement of telco codes

The *Telecommunications Amendment (Enhancing Consumer Safeguards) Act 2026* (**Amendment Act**) fundamentally reshapes compliance and enforcement in the Australian telecommunications sector. It passed Parliament on 15 October 2026 and received Royal Assent on 26 October 2026. It introduces:

- a mandatory registration scheme for carriage service providers (CSPs);
- direct enforcement of industry codes; and
- a turnover-based penalty framework.

Schedules 2 to 4 (direct enforcement and higher penalties) commenced on 27 October 2026. Schedule 1 (CSP registration) commences on a day to be proclaimed or, at the latest, on 27 October 2027, and the registration requirements will apply from six months after that.

1. Background: Carriers and CSPs

Most regulatory obligations imposed by the *Telecommunications Act 1997* (**Telecommunications Act**) apply to:

- carriers who own the network units (cables, radiocommunications transmitters, satellite facilities) used to supply services to the public; and
- CSPs who supply, or propose to supply, a listed carriage service to the public using a carrier's network (s 87). CSPs include retail resellers, mobile virtual network operators, internet service providers, VoIP and hosted-voice providers, and the many IT and managed service businesses that bundle connectivity with other services.

Carriers require a licence. CSPs do not, and until now have needed no other authorisation to enter the market. CSPs are bound by the service provider rules in Schedule 2 of the Telecommunications Act, by service provider determinations and industry standards, and, if they are *eligible* CSPs supplying standard telephone, public mobile or internet access services, by the obligation to join the Telecommunications Industry Ombudsman (**TIO**) scheme. There is no comprehensive list of CSPs. According to the Explanatory Memorandum (**EM**), there are about 1,500 eligible CSPs. The absence of a comprehensive list limits the ACMA's ability to educate CSPs about their obligations and to target compliance activity.

2. Mandatory CSP Register

Schedule 1 of the Amendment Act inserts a new Division 3A into Part 4 of the Telecommunications Act, establishing a Carriage Service Provider Register to be kept in electronic form, made publicly available, and maintained by the ACMA or a contracted service provider (new s 96Q). The Division introduces two prohibitions, each enforceable as a civil penalty provision through the existing carrier licence conditions and service provider rules:

- A registrable carriage service provider must not supply, or offer to supply, a listed carriage service to the public unless it is registered (s 96A). Registrable CSPs are the *eligible* CSPs that must already belong to the TIO scheme (s 127 of the TCPSS Act), together with any CSP or class

of CSPs the Minister declares. The Minister may also declare that particular eligible CSPs, or classes of them, need not register.

- A **carrier or wholesale CSP** must not supply, or offer to supply, a listed carriage service to a CSP unless that CSP is registered (s 96B). There is a safe harbour where the register shows the provider is not registered and the supplier has reasonable grounds to believe it is not registrable, and the Minister may determine further exempt circumstances. The prohibition applies to NBN Co despite any other Commonwealth law.

The ACMA must register an applicant unless it is satisfied that a ground for refusal exists and justifies refusal (s 96E). The grounds include false or misleading information in the application, unpaid fees, previous refusal or revocation, failure to join (or pay for) the TIO scheme, contravention of the TIO scheme, and conduct by the applicant that poses a significant risk to consumers or contravenes a telecommunications law.

There is also an 'immediate circle' test: registration may be refused if a person in the applicant's immediate circle is disqualified from managing corporations, has been convicted of an offence against a telecommunications law, or was an officer of a CSP whose registration was revoked in the preceding three years. The Minister may add further grounds by legislative instrument.

Registration runs for one year (or a longer period the Minister determines) and is renewable. The ACMA may impose conditions reasonably necessary to promote compliance (s 96F); it is a standing condition that TIO members comply with the TIO scheme and that providers notify the ACMA of changes to matters the Minister determines (for example, changes of ownership).

The ACMA may revoke registration (s 96L) after considering the nature, significance and persistence of contraventions, the likelihood of future contraventions, the impact on customers and the need to prevent harm. Before refusing renewal or revoking, the ACMA must issue a show-cause notice and consult the Minister, the Communications Access Coordinator and the ACCC. A de-registered provider must notify its customers and its upstream and downstream suppliers and arrange to transfer its customers to another registered CSP (s 96P), and the ACMA may impose obligations that continue after registration ends. Refusal, condition, non-renewal, revocation and post-registration obligation decisions are reviewable by the Administrative Review Tribunal. The EM describes exclusion from the market as a measure of last resort. Existing CSPs will have at least six months after Schedule 1 commences to register.

3. Background: how industry codes have been enforced

Part 6 of the Telecommunications Act allows industry bodies to develop industry codes which the ACMA may register. Registered codes contain many of the most important retail consumer protections, including the Telecommunications Consumer Protections (TCP) Code (sales practices, billing, credit management, financial hardship and complaint handling) and the Reducing Scam Calls and Scam SMS Code. Industry standards, by contrast, are made by the ACMA itself and have always been mandatory.

Until 27 October 2026, under the former s 121, compliance with a registered code was voluntary unless and until the ACMA gave a particular participant a written direction to comply with it. Only a breach of that direction was a contravention of a civil penalty provision, and the maximum court penalty for a body corporate was $250,000. The consequence was a two-step enforcement process: pecuniary penalties, infringement notices and enforceable undertakings became available only if the provider repeated the conduct after being directed.

4. Direct Enforcement of Industry Codes

Schedule 2 of the Amendment Act repeals and replaces s 121 with effect from 27 October 2026. Under the new provision, if a registered industry code applies to participants in a particular section

of the telecommunications, telemarketing or fax marketing industry, each participant in that section must comply with the code. Both the primary obligation and the ancillary prohibition on aiding, abetting, inducing or being knowingly concerned in a contravention are civil penalty provisions. The ACMA's power to direct compliance with a code, the related register of directions and the reviewability of direction decisions are repealed as redundant. New s 121A preserves the requirement that the ACMA consult the Information Commissioner before taking enforcement action where the contravention relates to a matter dealt with by the Australian Privacy Principles or a registered APP code.

The application provision (Schedule 2, item 9) states that new s 121 applies to codes registered before or after commencement and to conduct engaged in before, on or after commencement. The EM acknowledges this is retrospective, justifies it as aligning codes with the position that already applies to standards, and says the ACMA is expected to take a 'common-sense approach' to historical non-compliance it uncovers. Because the higher penalties in Schedule 3 apply only to conduct occurring wholly on or after 27 October 2026, historical code breaches remain subject to the former $250,000 maximum.

Direct enforceability does not mean every breach goes to court: the ACMA retains its graduated toolkit of formal warnings, remedial directions, enforceable undertakings and infringement notices. What changes is that all penalties are available from the first breach. This significantly increases the immediate regulatory risk for customer-facing obligations, particularly those in the TCP Code and the Reducing Scam Calls and Scam SMS Code.

5. Increased Pecuniary Penalties

Schedule 3 of the Amendment Act restructures the civil penalty framework in s 570 for bodies corporate, replacing the previous flat maximums (such as $250,000 for breaches of industry codes and standards) with penalties that scale to the size of the offending entity. For contraventions by a body corporate of industry codes (s 121), industry standards (s 128) and service provider determinations made under s 99, the maximum penalty for each contravention is now the *greatest* of:

- 30,300 penalty units (currently $9.999 million at $330 per unit);
- three times the value of the benefit that the body corporate and any related bodies corporate obtained directly or indirectly and that is reasonably attributable to the contravention, if the Court can determine that value; or
- if the Court cannot determine the benefit, 30% of the adjusted turnover of the body corporate and its related bodies corporate during the 'breach turnover period' (broadly, the longer of the 12 months ending when the contravention ceased or proceedings were commenced, and the whole period of the contravention).

The new maximums apply only to conduct occurring wholly on or after 27 October 2026 (Schedule 3, item 6). Conduct before that date remains subject to the former maximums.

6. Expanded Infringement Notice Powers

Schedule 4 expands and clarifies the Minister's power under s 572G to set, by determination, the infringement notice penalty amounts the ACMA can impose on bodies corporate. Previously that power extended only to breaches of general carrier licence conditions (s 68) and service provider rules (s 101); it may now be exercised for *any* civil penalty provision for which an infringement notice can be given, including breaches of industry codes and standards, and a determination may set different amounts for different classes of bodies corporate.

The amendments do not expand the range of contraventions for which infringement notices may be issued. The amount specified in a determination may not exceed 20% of the maximum court-

imposed pecuniary penalty for the contravention. Like Schedule 3, these changes apply only to conduct occurring wholly on or after 27 October 2026.

What to do now. A reasonable response to the increased risk of regulatory penalty might be to review compliance with the TCP Code and the scam codes now: breaches are directly enforceable from the first instance and carry much higher penalties. Eligible CSPs might also prepare to register once Schedule 1 commences, and carriers and wholesalers must plan to check the register before supplying services and ensuring that established resellers remain registered.

Please contact me if you have any questions regarding the matters discussed in this update.
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