

Investigation Report

File No.	ACMA2022/333
Carriage service provider	Starlink Internet Services Pte Ltd
ABN	44 654 486 582
Scope of investigation	Compliance with clause 4.1.4(b) of the Telecommunications Consumer Protections Code C628:2019

Findings

The Australian Communications and Media Authority (the **ACMA**) finds that Starlink Internet Services Pte Ltd (**Starlink**) has contravened clause 4.1.4(b) of the *Telecommunications Consumer Protections Code C628:2019* (the **TCP Code**) between 1 June 2023 and 26 July 2023, inclusive, by failing to communicate important limitations which apply to a special promotion.

Background

1. On 20 June 2023, the ACMA commenced an investigation under paragraph 510(1)(b) of the *Telecommunications Act 1997* (the **Act**) into Starlink's compliance with clause 4.1.4 of the TCP Code.
2. The investigation followed a complaint the ACMA received on 1 June 2023 about Starlink's alleged failure to include an end date about a special promotion of a service.
3. The TCP Code is registered under Part 6 of the Act and sets out rules that apply to all carriage service providers (**CSPs**) that supply telecommunications products to residential and small business consumers.
4. On 23 June 2023, the ACMA provided its preliminary views to Starlink and invited it to respond. On 10 July 2023, Starlink provided the ACMA with a submission in response. On 2 August 2023, Starlink advised that it established the end date for the promotion and updated its website on 26 July 2023.
5. In the course of the investigation, the ACMA examined:
 - a) the special promotion advertised on Starlink's website <https://www.starlink.com/> accessed by the ACMA on 1 June 2023 (see point in time screen capture at **Attachment A**)
 - b) Starlink's submissions.

Legislative framework

6. Clause 4.1 of the TCP Code sets out, amongst other things, what information suppliers must include in their retail sales and advertising to allow consumers to make informed choices. Clause 4.1.4 of the TCP Code relates to special promotions and requires that suppliers must communicate any important limitations which apply to its special promotions, so consumers are informed of the limitations. A supplier must take the following action to enable this outcome, subject to clause 4.1.3.¹

¹ Clause 4.1.3 requires a supplier to provide a level of detail in its advertising which is appropriate to the manner in which the advertising is displayed to consumers.

- a) Principal terms: disclose the key terms of the special promotion and any key limitations, such as whether stocks are limited and the period during which a customer will receive any associated promotional offering(s);
 - b) Timeframes: if the special promotion has a set end date, the supplier must disclose the end date for the special promotion; and
 - c) Eligibility: if there are special eligibility requirements, such as provision of coupons, bundling with other products and services or restriction to a specific class of consumers, the supplier must disclose each requirement of the special promotion.
7. Under clause 2.1 of the TCP Code a Special Promotion means:

an Offer of limited duration, limited quantity or offered to a limited subset of Consumers, (for example, a once-off promotion for members of a local gym or a special discount for the staff of a business customer of a Supplier), such as Discounts off Telecommunications Goods or components of Telecommunications Services

Findings and reasons

8. To determine Starlink's compliance with clause 4.1.4(b) of the TCP Code, the ACMA has assessed the following questions:
- (a) Is Starlink a CSP within the meaning of the Act and a supplier for the purposes of the TCP Code?
 - (b) Did Starlink offer a special promotion to consumers?
 - (c) If yes, did Starlink's special promotion to consumers include timeframes for the special promotion offer?

Is Starlink a CSP within the meaning of the Act and a supplier for the purposes of the TCP Code?

9. Starlink offers a 'two-way satellite-based internet service' which is a carriage service that enables end-users to access the internet. It is therefore a CSP within the meaning of section 87 of the Act and a supplier for the purposes of the TCP Code.

Did Starlink offer a special promotion to consumers?

10. Yes. The advertising material accessed on the Starlink website www.starlink.com by the ACMA on 1 June 2023 (at Attachment A) states that there is a rural Australia 'limited time offer'. In particular:

For select rural areas of Australia \$199 for hardware (from \$924)
In the rest of Australia \$599 for hardware (from \$924)
\$139/mo for high-speed, low-latency internet country-wide.

11. The Starlink offer falls within the definition of a special promotion under clause 2.1 as the offer is limited in duration and for a limited subset of customers.
12. In its submission to the ACMA's preliminary findings, Starlink advised that it decided to 'offer rural customers in Australia an opportunity to purchase the Starlink Kit at a promotional rate of \$199, which is a discount of approximately 78%, and other customers a promotional rate of \$599, a discount of approximately 35%.'

Did Starlink's special promotion include timeframes?

13. No. The advertising material promoting the special promotion as accessed by the ACMA on 1 June 2023 did not disclose an end date for the special promotion.
14. Starlink's submissions to the ACMA's preliminary findings advised that the 'discounts have been established for a limited time, but a specific end date for the promotion has not been set.' Starlink indicated that it wanted to see whether the reduced price made a difference in how many customers were signing up for Starlink before deciding when to conclude the discount.
15. Starlink's submission is that clause 4.1.4(b) of the TCP code only requires it to disclose an end date if it has set an end date. However, it is the ACMA's view that where the advertising for a special promotion indicates that the special promotion is limited in time, the expectation is that the consumers are informed of when the special promotion will end.
16. Clause 4.1.4 of the TCP Code requires that a supplier must communicate any important limitations which apply to its special promotions so that consumers are informed of the limitations. In this case, although Starlink submitted to the ACMA that there is a timeframe limitation to its special promotion, this limitation was not disclosed to consumers. By failing to disclose an end date, Starlink misled consumers about an important limitation which would have affected their capacity to make an informed choice about the product and service Starlink was offering.
17. The ACMA notes that on 26 July 2023 the advertising material promoting the special promotion for residential customers was updated to clarify that the special offer ends on 15 August.
18. For the above reasons, the ACMA finds that Starlink has contravened clause 4.1.4(b) of the TCP Code between 1 June 2023 and 25 July 2023 (inclusive).

Dated 10 August 2023

Order Starlink

starlink.com

ORDER STARLINK
RURAL AUSTRALIA LIMITED TIME OFFER
~~\$924~~ **\$199** FOR HARDWARE

High-speed, low-latency broadband internet available for \$139/mo.
Offer applies to select areas of rural Australia.
In the rest of Australia, ~~\$924~~ \$599 for hardware.

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