

Finally, a Prices Terms and Conditions code

The PTC Code is still waiting on the ACA's decision about how widely to define participants in the telecommunications industry. But it is ACIF's first consumer code

The finalisation and release of the Australian Communications Industry Forum's (ACIF) industry code on "Customer Information on Prices, Terms and Conditions" occurred in February 1999. The code was developed by an ACIF working party comprising representatives from industry, government, small business and consumer groups. Prior to the code's finalisation, it was available for public comment for six weeks. Participants of the telecommunications industry can now become a signatory to the code on a voluntary basis.

The development of the PTC code is part of the co-regulatory arrangements contemplated by the *Telecommunications Act 1997*. The Act gives examples of matters which may be covered by industry codes and includes customer information about prices, terms and conditions. The development of a code in this area has been seen as a priority by the Consumer Codes Reference Panel.

During the preparation of the code ACIF lodged a request with the Australian Communications Authority (ACA) for it to consider whether dealers and agents should be declared a section of the telecommunications industry and this matter is still with the ACA. This is significant because ACIF has decided that it will not submit the code to the ACA for registration until a decision on this point has been made. The implications of code registration are that the ACA has power to direct an industry participant to comply with a registered code even if the participant is not a signatory to the code or a member of ACIF. The sanctions for not complying include issuing proceedings in the Federal Court for a civil penalty. The ACA is obliged by the Act to register codes if specified consultation has taken place.

Meanwhile ACIF has produced this code as an interim code pending the ACA decision. It is intended that a subsequent code will be produced once the ACA has made a decision. It will then be submitted to the ACA for registration. If the ACA declares agents and dealers to be part of the industry, the ACA will then be able to direct dealers and agents to comply with the code. This would be possible whether or not the dealer or agent were a member of ACIF or a signatory to the voluntary PTC code in situations where the code has been registered.

The PTC code builds upon existing legal obligations applying to suppliers. The code contains four parts. The foreword explains: "The timing of the provision of information is also important if consumers are to make informed purchasing decisions. Information can be provided to consumers in advertising material, before the initial purchasing decision is made, in any contract the customer enters into and on an ongoing basis as the customer continues to use the products". The structure of the PTC code reflects these stages.

Part 1 is an overview. It states the objectives of the code, the first one being "to provide a concrete set of minimum standards for suppliers to meet in telling customers about the prices, terms and conditions of telecommunications products on offer". It also provides a set of fundamental principles, for example, that suppliers should give customers information which is accurate, up to date and relevant and sufficient to assist them to make an informed purchasing decision.

Part 2 deals with information requirements for advertising materials including disclaimers, availability, call connection fees, savings claims, use of the term "free", the bundling of products and comparative advertisements. The foreword notes that there is particular confusion regarding mobile phones and so individual attention is devoted to mobile phones, for example, in a situation where mobile handset offers are conditional on airtime connection.

Part 3 deals with information requirements for pre-sale and contractual purposes. It covers matters such as the description of the product, pricing information, termination, billing information, post sales support and rights of redress. It deals with spoken communications of prices, terms and conditions.

The final part of the PTC code concerns administration and compliance. It states that signatories to the code are subject to ACIF's Code Administration and Compliance Scheme. It does not set the scheme out. But it is available on ACIF's website (www.acif.org.au).

Vic Marles