

**COMMUNICATIONS
ALLIANCE LTD**



**ACMA Proposed Revisions to the NBN Consumer
Experience Rules and Complaints Handling
Standard**

COMMUNICATIONS ALLIANCE SUBMISSION
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EXECUTIVE SUMMARY

Communications Alliance welcomes the opportunity to provide this submission in response to the ACMA's proposed revisions to the NBN consumer experience rules and the Complaints Handling Standard (the instruments). We have reviewed each of the ACMA's proposed changes in this submission.

Overall, Industry does not see the necessity for many of the changes proposed, and encourages the ACMA to balance the negative consequences of these regulatory changes against any purported positive impacts.

- The *Telecommunications (NBN Consumer Information) Industry Standard 2018* (Consumer Information Standard) works in conjunction with a number of other instruments, such as the ACCC's Broadband Speed Guidelines, which offer strong consumer protection. Industry does not view that there has been any clear substantiation of problems that the proposed revisions seek to address, and considers the Consumer Information Standard would be best left as currently drafted, as opposed to adopting the proposed revisions.
- We have offered the majority of our comments on the *Telecommunications (NBN Continuity of Service) Industry Standard 2018* (Continuity of Service Standard) and the *Telecommunications Service Provider (NBN Service Migration) Determination 2018* (Service Migration Determination) together, as these two instruments are closely related. We do not believe that the proposed revisions would bring any benefit, but Industry strongly recommends the removal of the technical audit and plan requirements.
- As raised in previous submissions, we have ongoing concerns with high levels of prescription in the *Telecommunications (Consumer Complaints Handling) Industry Standard 2018* (Complaints Handling Standard). While some of the proposed revisions address this challenge, the majority do not appear necessary.

Regardless of the exact proposed revisions the ACMA chooses to adopt for the revised instruments, an implementation period will be necessary, which we address both in the introduction to our submission and as regards each instrument.

Finally, we request the ACMA to consider the future of these instruments, as they become less relevant following the completion of the NBN roll-out, and in light of the ongoing decrease in complaints numbers.

About Communications Alliance

Communications Alliance is the primary telecommunications industry body in Australia. Its membership is drawn from a wide cross-section of the communications industry, including carriers, carriage and internet service providers, content providers, equipment vendors, IT companies, consultants and business groups.

Its vision is to provide a unified voice for the telecommunications industry and to lead it into the next generation of converging networks, technologies and services. The prime mission of Communications Alliance is to promote the growth of the Australian communications industry and the protection of consumer interests by fostering the highest standards of business ethics and behaviour through industry self-governance. For more details about Communications Alliance, see <http://www.commsalliance.com.au>.

INTRODUCTION

Industry appreciates that the ACMA has undertaken the review and revision of these instruments as a two-step process, giving us the opportunity to comment on the exact proposed revisions. These are complex prescriptive rules, which mean seemingly small changes can have unintended consequences.

Overall, we still see that the level of prescription in these rules is, unfortunately, forcing providers to focus on internal administrative processes and documentation – which are often somewhat duplicative or not applicable to the circumstances – instead of on delivering positive results for consumers. Removing prescription in this or future revisions will allow providers to re-focus on providing service to consumers and resolving their problems.

However, we focus the majority of this submission on the revisions proposed by the ACMA. We note that many of the revisions do not appear to be in response to a specific problems or identified areas of consumer detriment. While we will comment on this in relation to each specific standard, any changes to these instruments do create costs, and unless there is a need, we do not see that it is in the best interest of consumers for providers to have to divert resources from directly assisting customers.

As can be seen by the detailed nature of this submission, Industry has seriously considered and responded to each proposed revision, and would welcome any further questions or opportunity to engage on these changes before they are finalised.

Implementation periods

Industry incurred significant cost to implement these instruments when they were introduced. The Complaints Handling Standard had an extremely short implementation timeframe of less than one month. Despite the other instruments allowing approximately 3 months for implementation, these still required retraining, systems changes, and the diversion of critical resources from ongoing projects.

With this in mind, it is vital the ACMA consider the impact on Industry and consumers when determining the commencement timeframe for each of these revised instruments. As this review process began in August 2019, and has not identified any urgent or significant problems, **we strongly recommend a minimum of a 3-month delay between the publication of the final instruments and their commencement.**

This is to allow for the range of activities required to undertake changes – even those that may be seemingly simple. To further explain, we have provided some insight on the steps that may be required – noting that these change significantly depending on the size and operational structure of the provider:

- Published documents: Internal consultation, initial drafting, review by business and commercial teams, re-drafting, review for consumer understanding, legal review, typically a repetition of at least a few of these processes, and then further final reviews. Once the document has been approved, if it is to be published on the website, it must then enter a queue of other website changes that are typically scheduled months in advance.
- Procedures: Examine current procedures, draft new procedures, go through a similar review and approval process to that discussed above, typically also adding human resources and/or training reviews. Once the new procedure is finalised, training must be designed and scheduled into an already crowded training calendar. For staff to be trained, they must be pulled from their active jobs, depleting either technical or customer service resources.
- IT systems or website changes: For providers who manage these internally, there is typically an advance schedule of all changes to be made, many of which are time sensitive and have hard dependencies such as new product roll-outs. Having to

reshuffle this list can have impacts across the business, both internally and externally. For providers who have external companies manage these, changes require budgets to be reshuffled and changed.

This is only a small sample of steps providers may need to take when implementing any regulatory change. Having to do so for all of the changes proposed in these documents will require resources from across the business, and would be much better managed with a reasonable implementation timeframe.

We have included further information for each instrument - and some specific clauses within those instruments – in this submission.

Future of the instruments

Given that the majority of the rules are focused on consumer experience during the roll-out phase of the NBN – a task that is scheduled to be largely completed this year - we believe it is prudent to consider the process and schedule for 'sunsetting' some of the instruments once their relevance is diminished by the passage of time and network migration, or folding them into other instruments such as the *Telecommunications Consumer Protections (TCP) Code C628:2019* where relevant. This would be in line with the work being undertaken in the Consumer Safeguards Review to streamline regulation and clarify consumer protections.

We have addressed this matter for each specific instrument further in this submission.

Definition of consumer

The proposed change to the definition of "consumer" applies across all four instruments, and thus we are including our input on this topic in this introduction.

Industry agrees that the spend limit in this definition should be increased for the purpose of aligning with the TCP Code.

However, the related Record Keeping Rules (RKR) will still retain the previous definition, as they are not included in this review process. We strongly recommend the ACMA revise the definition in the RKR at the same time as these rules, to ensure consistency across all of the instruments.

QUESTIONS POSED IN CONSULTATION

Below we have offered input to the specific questions posed on the consultation website.

Additional information for consumers

We strongly recommend caution when considering prescribing more information to be provided to consumers during a sign-up process.

The amount of information CSPs are required to provide directly – instead of providing resources which consumers can reference when appropriate for them - has reached a point where many consumers don't recall receiving specific parts, even in circumstances where there is incontrovertible evidence that they did receive it. This is unfortunate, but will not be resolved by adding more information to the sign-up process.

Before the ACMA considers adding requirements for specific pieces of information, we consider there are two necessary steps:

- Clearly identify a significant problem that impacts the majority of consumers; and
- Review the information already required to be provided to place the new requirement in context.

We recommend a commitment that any new requirements should replace an old one that is removed, in keeping with the Government's reduction of red tape agenda. In light of this, Communications Alliance intends to informally review the Customer Information Obligations Framework in the first half of 2020 to consider if it needs a formal revision and create an easy to access updated resource for our members. We hope to engage with the ACMA following this process to consider how the relevant requirements can be updated to ensure consumers are only provided with the most important information to increase understanding and retention.

If either of the pieces of information identified in the consultation (specifically discussed below) are concluded to be necessary after further consultation, we would recommend providing them through either:

- Communications Alliance's Broadband Education Package, which is in the process of being updated and is already linked to in non-NBN Critical Information Summaries (and could potentially be linked to from Key Facts Sheets to streamline the information required to be contained therein); or
- Provider websites, so customers can access the information when it is relevant to them.

Difference between professional and self-installation of NBN equipment

The question posed was if consumers need more information about "The difference between professional installation and a self-installation of NBN equipment within homes or small businesses when connecting to the NBN."

While we note the TIO raised this in their submission, there is a significant lack of detail and clarity. Despite consultations with our members, Communications Alliance was unable to establish what precisely this was referring to – much less were we able to identify a widespread problem.

Per the ACMA's request, we have gathered the following information that may be related to the TIO's concern.

“Professional installation”: There is a wide range of services/circumstances this could refer to. We were able to identify the following:

- nbn installation of NBN infrastructure/equipment (i.e., hooking up a premise to the NBN for the first time): Professional installation is not optional as this stage in the process, as the installation method of any NBN infrastructure/equipment is typically determined by nbn.
- Plugging in and setting up a modem/router: This is a fairly common activity, and has been necessary since long before the nbn roll-out.
- We assume this is what the TIO was referring to, but if there are to be further consultations on this topic, we would encourage a clear delineation be made.
- Installation of in-home cabling and/or moving wall sockets: There are cabling companies who offer services to run in-home cabling, targeted for new NBN services.

The most common of the above is the setting up of a modem and/or router, and we are assuming this is what the TIO is referring to. Thus the following comments are about that option.

Offers from RSPs:

Our first concern with establishing rules on this topic is that not all RSPs offer professional installation as an option, and thus there is not always an option for a consumer to be provided with information about this. Generally, a service such as this (whether paid or included) is a commercial decision for the RSP, as it is part of their value proposition.

When RSPs do offer professional installation and charge for it, they have a commercial incentive to explain the benefits to the customer, and obligations under ACL to ensure that the information provided is not misleading or deceptive.

Ultimately, any further action on this topic requires the problem to be clearly identified - and the extent and seriousness of its impacts to be evaluated - to consider if a solution is required, and if so, then to examine if a regulatory solution is appropriate.

Impacts of co-existence during the migration period

RSPs have very limited information on co-existence they can provide to consumers.

While the potential for co-existence to impact their speed should be discussed with a consumer if there are performance issues with their service, this information should only be provided if and when it is applicable to a customer.

Raising the topic of co-existence prior to any performance issues will create confusion, may prevent consumers from moving to an NBN service until the last possible opportunity (which could create problems with ensuring service continuity when they do transfer), and will simply add to the overwhelming amount of information consumers must receive when signing up to a service.

Additionally, co-existence is not occurring in all areas, and in affected areas, many services won't be impacted, or won't be impacted to a noticeable level. Thus, the very limited information which could be provided would only apply to a percentage of consumers, while creating unnecessary confusion and concern for the majority.

There are sufficient protections created through these instruments, the ACCC, the TCP Code, and as a fall-back the TIO, such that if consumers are not receiving the appropriate speed for their level of service, those problems are identified early and then can and will be resolved.

Requirements to prepare a plan and complete a technical audit

The ACMA has requested feedback on “the value and effectiveness of the requirements to prepare a plan for ensuring a consumer is provided with an operational NBN service and to complete a technical audit in section 23 of the Service Continuity Standard and section 16 of the Service Migration Determination.”

We are pleased to offer feedback on these requirements, as they have unfortunately been a significant administrative burden, directing resources away from assisting consumers, with very little – if any – consumer benefit. We strongly recommend these requirements be removed from the instruments. We also note that these RSPs at differing points in the supply chain may face different challenges when implementing some of these requirements.

We provided feedback on these requirements in [our submission](#) to the review, but have re-analysed the issues and provided further information below.

Prepare a plan

While we support the intention to connect a consumer to the NBN as soon as possible, and to appropriately address unreasonable delays in supply, the requirements regarding the preparation of a plan actually have the opposite impact.

The provision of a plan to customers has actually caused confusion in some cases, as CSPs are typically in ongoing contact with customers when there is a delay in migration. If the CSP has already explained the situation to the customer in the previous days, a following update has caused many customers to think there are changes in the process (because they don't understand why they are being contacted again).

Additionally, it is a resource-heavy activity. It has required the creation/re-programming of new IT systems for some providers, and more relevant directly to consumers, it pulls the focus of technical experts and customer service representatives away from actively managing/resolving the lack of connection to instead focus on the writing of a plan (which has to be structured, reviewed, etc), despite the customer typically already being advised of all of the relevant information.

Specific Issues

Prescriptive Timeframe

The specific timeframe associated with this provision is one of the most problematic parts, for a few different reasons:

- Often, the listed information isn't available at this point in time. It is quite likely that if the problem hasn't been resolved, there is no clear diagnosis or steps for remediation.
- Alternatively, if the problem is scheduled to be resolved within a day or two of this requirement, it unnecessarily pulls resources and provides a level of detail and information a consumer isn't interested in, as they know their connection will be established shortly.

Diagnosis and steps required

The requirement to include a diagnosis and steps required to resolve is potentially problematic if a diagnosis of the underlying issue is yet to be finalised.

If a clear diagnosis and/or steps to establish connection are known to a provider, they will already be in process to action these – and the customer will have already been informed.

In most cases, as addressed above, this information isn't available yet – it is likely that both the CSP and nbn are actively working to identify exactly this information so they can proceed with connection.

Timeframe for completing remedial work

If the diagnosis of the underlying issue is still ongoing, it may not be possible to identify a clear timeframe for remedial work. In complex cases, CSPs are often dependent on information from nbn, which would be actively working to determine the problem and steps required to remediate.

CSPs and nbn are in agreement that once that information is identified, it is passed along promptly – i.e., once nbn knows what next steps are and a timeframe, they provide that to the CSP, which then communicates it to the customer. This happens outside of the prescriptive timeframe, as soon as practical, which is more in line with the stated goals of the instruments to ensure customers are informed and connected as soon as possible.

Compensation

The question of compensation for a customer who is facing delays in their NBN connection is clearly addressed in both the CSS and SMD. It is not necessary – and in fact confusing – to add another section regarding compensation.

Contact details

CSPs are required to provide contact details to customers in a range of methods, and clearly at this point an affected customer will have already been in contact with their provider about their connection, who will be providing them with regular updates. We query why there would be a requirement to provide a customer with the same information they already have and have been using.

Complete a technical audit

This requirement is also unhelpful and resource intensive, and we recommend it be removed from the instruments.

Information required

It is often simply not possible for CSPs to comply with these requirements, as there may have been circumstances about which the CSP didn't have any knowledge of that impacted the migration. As to identifying measures to avoid similar problems, if a service has been delayed this significantly, it almost certainly falls into one of two categories:

- The problem arose due to a unique range of circumstances, information on which won't be helpful for other customers or cases; or
- If there were learnings or patterns identifiable, providers will already have done so and be working with relevant parties to improve future migrations.

Thus, this requirement does not provide any useful information for RSPs, nbn, or any other party in the supply chain.

Timing

The requirement to complete the audit while the problem may still be active means that staff with technical expertise and familiarity with the consumer's specific circumstances are diverted to administrative tasks instead of focusing on resolving the issue. This is extremely harmful to the effort to successfully establish the customer's NBN connection.

Additionally, if the problem hasn't yet been resolved, then it is unlikely the information required to be included in the audit is identifiable, thus meaning that the pull of resources doesn't offer any benefit as it does not result in any useful information.

Proposals for this revision

As explained above, many of the specifics under these requirements are already addressed in other ways or are unnecessary.

Regarding the timing, diagnosis, and process for resolving connection issues, nbn is currently consulting on the WBA4, which includes all of these issues. This is a better construct for the rules and procedures about fixing any connection issues, and ensures all parties in the supply chain have continuity in their requirements and share an understanding of the process and timeframe.

If the ACMA requires further consultation before removing these requirements, we recommend the following changes be made in this revision of the instruments. These will provide consumers with the information relevant to them and would not require costly changes to procedures established with the original commencement of the instruments.

Preparation of a Plan

In the interim before removal of this requirement, the below proposed revisions should be made to address the following issues: CSPs have found that customers typically have no interest in the detailed and technical information of a diagnosis and full remedial steps, consumers find it confusing when this information is provided to them, and CSPs may not have access to this information at this stage. A consumer's main question is when will their service be functional, and potentially what is their CSP doing about the delay.

A plan mentioned in subsection (2) must contain the following minimum requirements:

- (a) ~~a diagnosis of the issue that has caused the NBN service to be not operational;~~
- (b) the steps the NBN CSP is taking to ~~required to remediate the issue and~~ establish an operational NBN service;
- (c) where available, the timeframe for completing the required remedial work;
- (d) any compensation that will be offered to the consumer; and
- (e) contact details that the consumer can use to gain updates on the completion of the remedial work.

Technical Audit

As above, these changes are proposed as an interim measure if the ACMA is not prepared to remove this requirement during this revision. They would be a minimum step towards allowing CSPs to apply their resources appropriately and not requiring them to identify information they aren't able to, but they are not a solution to the problems and lack of necessity of a technical audit.

- (1) If, at a further 20 working days (the *further period*) after the expiration of the 20 working day timeframe mentioned in subsection (2), the NBN service is not operational, the NBN CSP must arrange for a technical audit to be completed ~~within 10 working days after the expiration of the further period.~~

- (2) A technical audit under subsection (5) must identify [where available](#):
 - (a) why the plan mentioned in subsection (2) did not result in the establishment of an operational NBN service;
 - (b) the steps that are required to remediate the issue and establish an operational NBN service as soon as possible; and
 - (c) the measures that can be instituted to avoid similar problems in other cases.
- (3) An NBN CSP is not required to prepare a plan mentioned in subsection (2) or complete a technical audit under subsection (5) where it determines on reasonable grounds that the reason why the NBN service is not operational is due to an issue on the consumer's side of the boundary of a telecommunications network.

Overlap with Complaints Handling Standard

When examining the requirement to prepare a plan, we noted some overlap with the Complaints Handling Standard (CHS), which can cause confusion for customers. When a customer has lodged a complaint due to/connected to their delayed connection, there are different requirements for timelines and provision of information.

This often means that a customer will have 2 different teams managing their issues (complaints team and technical/nbn team), which is clearly not beneficial, and will receive different information at different points in time. It also creates a significant and unnecessary burden for the provider that does nothing towards actually resolving the customer's problem.

ACCAN also raised in its submission that "The rules currently operate as a series of independent legal instruments, rather than a comprehensive consumer protection regime."¹

While it would require major revisions to resolve this on a larger scale, we propose a small revision to the Complaints Handling Standard as a first step to aligning requirements across the rules.

Under Section 14 of the CHS, add a new subsection (3), reading "Where applicable, the requirements under (1) and (2) can also be met by taking the steps under Section 16 of the *Telecommunications Service Provider (NBN Service Migration) Determination 2018* or Section 23 of the *Telecommunications (NBN Continuity of Service) Industry Standard 2018*."

This would ensure customers are being kept informed as appropriate for their complaint, and that the correct single team is managing their issue.

If the ACMA does not see the above proposal as an option, we strongly recommend the following as an absolute minimum change to address the overlap between the Complaints Handling Standard and the preparation of a plan requirements (noting this would not resolve the majority of the problems outlined above):

16(3), SMD and 23(2) CSS: Add a subclause (i): "This is only required if the consumer has not previously been advised of this information."

¹ *Post-implementation review of the NBN consumer experience rules, Submission by the Australian Communications Consumer Action Network, ACCAN*, p 11.

CONSUMER INFORMATION STANDARD

We are disappointed that no recommendations on flexibility in formatting or the ability to provide links appear to have been considered, as the amount of information required to be included in a Key Facts Sheet (KFS) often means consumers don't read it at all, resulting in a situation that is the exact opposite to the intention of the Consumer Information Standard (CIS).

Regarding the specific changes proposed in the revision, we strongly recommend the CIS remain as currently drafted, as none of the changes appear to be urgent or addressing areas of consumer detriment. While we comment on each of the proposed revisions in the following sections – and do note not objecting to some specific changes – these comments are in the context of the ACMA proceeding with any revisions to the CIS. On the whole, the resources required to revise the KFS for providers as a result of these revisions could be put to better use.

Additionally, we would like an understanding of the ACMA's future plans for the CIS. As previously, we recommend a formal scheduled sunset, or at minimum a truly substantive review, in line with the end of the migration. The goals of this Standard are and can be met through a combination of the ACCC's Broadband Speed Guidelines and the Critical Information Summary (and the linked Broadband Education Package), and Communications Alliance would be interested in working with the ACMA to identify how the Critical Information Summary could be revised to more fully meet the goals of the Consumer Information Standard.

Reducing the amount of documents customers are provided on sign-up/can consult before purchase, while ensuring they still receive the relevant information, would go a long way towards increasing the amount of information consumers actually retain from this process, as discussed in the previous section in this submission on [Additional information for consumers](#).

Implementation Period

As addressed in the introduction to this submission, any changes to a published document require review by a range of business units, and for a document specifically intended to educate consumers, best design is ensured by an appropriate amount of time to test and consult.

In light of this, we recommend a 3-month implementation period for all of the changes proposed to this instrument, which is in line with the period provided when the Standard was initially put into place.

Specific comments

We offer these specific comments in order of the Standard, not in order of priority.

Definitions

Typical busy period download speed

We do not object to this change.

Part 2 - Provision of information about NBN services to consumers, Division 2 – Minimum requirements for information

8 Minimum requirements – data speeds and online usage

8(1)(c)(iii)

We do not object to this language change.

8(1)(d) – FTTB, FTTC, or FTTN, addition of remedies

We do not object to this clarification, but would recommend that for clarity it refer to the exact relevant clause in the SMD, thus reading “...to be made available under [Section 14\(3\)\(b\) of the Telecommunications...](#)” This would prevent any potential confusion for CSPs.

9 Minimum requirements -technical limitations

9(a)(iii) – Battery backup

We do not see that this addition is necessary, and with the extremely prescriptive rules on formatting noted above, we are concerned about any additions.

Battery back-up is irrelevant for most customers, particularly as it only applies on the FTTP network, is an optional product feature that has very low take-up, and because an alternative power source would also be required for any devices the customer would actually be using during a blackout, the few impacted customers will generally understand that an alternative power source is also required for the router.

Part 2 - Provision of information about NBN services to consumers, Division 3 – Advertising material for NBN consumer plans

11(1)(c)

We do not object overall to this language change.

However, we would recommend that for ease of reading, the ACMA consider moving the “for a fixed line NBN connection” qualification from each sub-paragraph (a) (b) and (c) to the language at 11(1), so it would then read “Where its advertising material relates to an NBN consumer plan for a fixed line NBN connection, a retail carriage service provider must:”

11(3)(a) – Information on standardised labels

We do not see that these proposed additions are necessary or necessarily provide any consumer benefit.

(i) Applicable speed tier

The remainder of this Standard and the ACCC Broadband Speed Guidelines require/encourage providers to always balance any information about speed tiers with the typical usage speeds. It has been made clear to Industry that the regulators do not consider the speed tiers to be of significant use to consumers, and that they view information on speed tiers can in fact create confusion.

Additionally, providers may choose to build their products differently (i.e. – with similar typical busy period speeds but different underlying speed tiers), and with evolving nbn pricing and promotions such as ‘Focus on 50,’ the underlying speed tier is not necessarily as relevant for consumers as the typical busy period speed.

While many providers may include this information in their advertising and/or KFS, we do not see that it is necessary to be included in the definition of each standardised label. We also are not aware of why the ACMA has proposed this change, as there does not appear to be an established problem it is intended to solve.

(ii) Applicable typical busy period download speed

Considering that providers already have to abide by numerous requirements (under the ACCC's Broadband Speed Guidance, 11(1) of this instrument, and 8(1) of this instrument) to publish the typical busy period speeds for their NBN consumer plans, this is a duplicative requirement and we once again do not understand why this additional requirement has been proposed.

CONTINUITY OF SERVICE STANDARD (CSS) AND SERVICE MIGRATION DETERMINATION (SMD)

As stated in our original submission to this review, Industry has already invested significantly in creating the required procedures, and additional changes will be costly, complex, and long-term the investment required to make changes will not provide equivalent consumer benefit as the migration period comes to an end. In light of this, we appreciate that the ACMA has not made significant changes to these instruments, although Industry would have liked to see this review process identify opportunities to focus on outcomes-oriented regulations, aimed at improving consumer experience. We do view that there could be revisions made which would improve customer experience. Most significant are the changes to the plan and audit provisions discussed in the introduction to this submission.

Implementation Period

Many of the changes proposed to these instruments will require process, documentation, training, and IT changes. These are costly and complex changes, especially as all of Industry is directing their resources towards helping consumers get connected. The proposed revisions did not identify any urgent or widespread problems they are targeted to solve, and in light of this we do not see a need for urgency which pulls resources from helping consumers.

We address the specific resource-intensive changes below, but overall strongly recommend a 3-month minimum implementation period for these changes.

Specific Comments

Definition: Alternative Arrangement

Industry strenuously objects to the addition of language on a solution that “reasonably offsets” an interim/legacy service not being supplied.

CSPs generally understood that “alternative arrangement” was intended to allow them and their customers flexibility in coming to an arrangement while working towards a successful connection. The interim services or other alternative arrangements provided by a CSP are part of its commercial differentiation, and this flexibility is necessary for consumers to have a range of value propositions to choose from in the market.

There are CSPs that may have limited options in what they can offer the customer. To limit a CSPs options by inserting a new standard into the definition puts those CSPs at a distinct disadvantage in an otherwise competitive market. As a general comment, regulations that increase the costs significantly to smaller CSPs run the risk of those CSPs being unable to absorb those costs, exiting the market and reducing choice to telecommunications consumers.

Additionally, “reasonably offsets” is a vague and complex standard with no clear method for calculating what costs would reasonably need to be offset. Specifically regarding the CSS and reconnection of legacy services, “reasonable” raises significant questions. If the legacy service was, for example, a hi-speed VDSL2 connection, the “reasonable offset” payment for a consumer would be so high it would be commercially unfeasible for basically every CSP.

Some RSPs would also like to address the understanding that the ACMA intends this revision to remove the option from consumers and CSPs for a customer to agree that not paying until their NBN service is connected is a satisfactory Alternative Arrangement.

Excluding that option will have negative consequences on consumers. It is necessary because there a number of circumstances where it is truly impossible for a CSP to offer an

interim service (or alternatively 'offset' not having a legacy service) – for example, CSPs who only offer NBN services cannot offer a mobile service, and for those who can, there are customers who are outside of mobile service areas. In those circumstances (where options (b), (c), and (d) in the definition are not possible), the only other option that would be allowed by the proposed language is (a) – the payment of reasonable compensation. This is not commercially feasible for many CSPs.

If all CSPs are forced to provide high payments to consumers if there is not an option for an interim connection or legacy reconnect, many CSPs will have to raise prices, and every single low-cost NBN CSP will either stop taking on migrating customers, or raise their prices significantly – entirely removing the option of low-cost plans for consumers who are migrating to the NBN. This is in exact opposition to stated intentions of the ACMA, Government, and ACCC.

Definition: Migration

We strongly disagree with this revision, due to the impact it has on legacy CSPs who are *not* the NBN CSP under the CSS (which we assume are unanticipated consequences).

The central concern is that due to 7(2)(b)(ii) of the CSS states that a legacy CSP cannot disconnect a consumer's legacy service (without the consumer's request) during migration.

Section 12 (b) does provide that a legacy CSP does not have to reconnect the consumer if disconnected in contravention of 7(2)(b)(ii), unless disconnected for a valid reason.

However, the definition of valid reason is extremely strict.

Change in definition lengthens migration time

A legacy CSP will not be aware if their customer has placed an order with a new NBN CSP prior to the commencement of the actual process of migration, unless the customer has clearly informed them of such.

There may be an extended period of time between the time a consumer places an order and the initiation of migration, which could happen for a range of reasons, including the follow:

- if the customer is choosing to finish the month, or a contract, with the legacy CSP before initiating migration;
- if, to avoid any potential negative impacts of hiccups in the process, the customer has chosen to time the migration with their needs – for example, making sure it is scheduled outside of school holiday periods, or when they won't need the connection for a major project;
- if the customer signed up to take advantage of a special offer with the new NBN CSP but wants to wait for migration for any particular reason; or
- if the customer wants to switch to a new CSP for the NBN once their home is ready for service, and places the order in advance.

Valid reason

CSPs may need to disconnect a customer's service for a range of reasons during the above time periods. In light of this, we propose the expansion of valid reason to allow legacy CSPs to proceed with normal business as appropriate.

The current definition of "valid reason" only includes "valid credit management processes" or "the Unwelcome Communications Code." The following are a sample of some examples of other reasons a CSP may cancel a customer's service:

- Court order to disconnect – for example, under the *Copyright Act 1968*, 115A(1), a court may require a CSP “to take such steps as the Court considers reasonable to disable access to an online location outside Australia”; or
- Other regulatory/legal order to disconnect – for example, the *Telecommunications Other Legislation Amendment (Assistance and Access) Act 2018* requires a CSP to provide “reasonable assistance” to law enforcement and intelligence agencies which could certainly include the direction to disconnect a customer; or
- Reasonable suspicion of fraud; or
- In case of emergency; or
- Customer breaches terms of their agreement, including:
 - A fair use policy which ensures that a specific customer is not using their service in a way which causes significant network congestion or disruption, particularly that which would then impact on access by other customers; or
 - An acceptable use policy, which typically disallows use of the service for illegal activities, such as the sending of restricted content and confidential or copyright material, for use of the service to distribute viruses or other actions which could compromise security of networks or other systems, for use of the service to send Spam, and for a range of other reasons; or
- The CSP is closing down as a business, or stopping provision of that service (ADSL, etc) and has followed all appropriate requirements to notify their customers.

We also note that these requirements apply to NBN CSPs who are the legacy CSP. Many similar problems exist with the strict definition of “valid reason,” as CSPs should not be left in legal limbo – especially CSPs without significant resources/in-house legal teams – if there is a conflict in their legal obligations.

The clauses as currently written prevent a CSP from exercising their contractual rights, and under the proposed definition, any CSP providing legacy services would need to stop every disconnection, regardless of validity, to ensure they did not risk breaching the Standard because there is no way for them to know if a customer has placed an order for NBN services with a new CSP. This will have significant commercial, legal, and operational impacts.

Section 15 (SMD) and Section 21 (CSS): Circumstances where an NBN CSP must not charge a consumer for an NBN service

As raised in our submission to the review, the drafting of Section 15 of the SMD means it applies to both circumstances where a legacy service is not available (i.e, parallel migration), and where legacy services are available (i.e, circumstances covered under Section 21 of the CSS), and thus it is duplicative – and confusing - to include the requirement in both instruments.

For further clarification, per Section 4 of the SMD, the instrument applies across all NBN services (regardless of availability of a legacy connection), with the relevant requirements drafted with application clauses (for example, 10(1) refers back to 9(1) to clarify where the requirement applies), and there is no qualification for Section 15.

As to the changes proposed, we do not see that the change is necessary, but do not oppose it.

Section 16 (SMD) and Section 23 (CSS): Requirements where there is unreasonable delay in the supply of an operational NBN service

The comments below are specifically regarding the proposed changes. Our feedback regarding the value and effectiveness of these requirements can be found in the "Questions Posed for Consultation" section of this submission.

Proposed changes: CSS 23(1): Circumstances where NBN CSP must prepare a plan: Number of working days

We understand that this change was proposed to clarify the timeline, as the previous timeframe was the 3 days laid out in 11(1)(a)/(b), plus the 20 days under this Section. While we do not see that these proposed changes are necessary, we do not oppose them, with two notes:

- we strongly recommend this same change be made to Section 16 of the SMD, as it has a similar structure (the 20 working days begin at the end of the 3 working days laid out in 9(1)(a)/(b)); and
- if retained the current proposed drafting requires a "then" before "...the NBN CSP must within 2 working days, prepare a plan...".

Specific change to Service Migration Determination

Part 4 - Rules Relating to Line Capability Assessment, 14(1)(b)(ii), consumer options

We note that these changes may have been proposed to address the comment in our previous submission that the language does not currently allow for circumstances when there is not a lower speed plan available.

However, we strongly disagree with the addition of option (ii). This may force CSPs to charge below cost recovery, and will likely leave customers without options for a CSP, as CSPs won't be willing to enter into contracts where they cannot cover their costs.

We propose instead the following language (changed based on the language in the current registered Determination, not the proposed revisions):

- (a) of the maximum attainable speed of the part of the network unique to the consumer; and
- (b) if available, that they may, at no cost, move to a lower speed tier plan at a lower price that reflects the maximum attainable speed; and
- (c) that they are free to exit the consumer contract which the NBN CSP has entered into with the consumer, without cost.

Noting that clause (4) directly following the above states that the NBN CSP and the consumer may agree to another remedy, thus allowing for the lower cost option if a CSP is commercially able to provide that option.

Finally, while all members strongly object to the current proposed change, some RSP members view that if it is adopted, the only way for it to be commercially feasible would be for the wholesale arrangements to reflect the requirement for the CSP to provide the service at a lower cost.

COMPLAINTS HANDLING STANDARD

We are disappointed that none of the recommendations raised in our submission to the review appear to have been addressed. Industry continues to recommend going back to a principles-based approach, allowing for complaints to be managed as appropriate to each customer and circumstance. However, we will focus this submission on the proposed changes to the current Standard.

We appreciate that the ACMA attempted to simplify the published complaints handling process and agree that this is a positive change for consumers. However, some of the resulting proposed revisions (specifically for section 11) don't have the intended outcome, as addressed below.

Implementation Period

When first published, the Complaints Handling Standard (CHS) required significant resources to implement. These had to be redirected from ongoing work, including refocusing staff and budget allocations from directly assisting consumers to instead completing new administrative tasks.

Industry has, however, implemented the Standard, and the ACMA is actively working on education, compliance, and enforcement. During this time we have also seen complaint volumes decrease, as demonstrated by the ACMA's report showing that complaints directly to RSPs fell in 2018-2019, and the ACMA and TIO reports showing that complaints to the TIO decreased. The ACMA's report stated that "The fall in complaints referred to providers by the TIO suggests providers are getting better at managing complaints themselves and minimising escalations to the TIO."²

In light of these circumstances – both decreasing complaints and the already significant amount of resources providers have employed to implement the Complaints Handling Standard – it would align with the Principles of Best Practice Regulation (specifically the seventh: "government action should be effective and proportional to the issue being addressed"³) for the ACMA to incorporate a proportionate implementation period for changes that will require resources, to help ensure that consumers will not have other services or processes interrupted by a sudden forced re-allocation of resources.

We have noted the specific changes that will require resources to implement, and the associated recommended implementation period, in each section.

They are as follows:

- 8(1) Minimum requirements – accessibility (contents of complaints handling process)
- 8(3) Minimum requirements – accessibility (website)
- 9 Minimum requirements – timeliness (contents of complaints handling process)
- 10 Minimum requirements – transparency (contents of complaints handling process)
- 11 Complaints management (documented internal processes)
- 12 Acknowledging complaints (training, procedures, and IT)
- 17 Attempt to make contact (training, procedures, and IT)

² *Telecommunications complaints-handling 2018-19*, ACMA. p 3. <https://www.acma.gov.au/publications/2019-10/report/telecommunications-complaints-handling-2018-2019>

³ Principles of Best Practice Regulation, Department of the Prime Minister and Cabinet. <https://www.pmc.gov.au/ria-mooc/coag/principles-best-practice-regulation>

As none of the proposed revisions are presented as urgently required to resolve an ongoing issue, we suggest it would be more straightforward for all involved if, instead of allowing an implementation period for specific clauses, the revised Standard came into effect three months after being made.

Separation of Internal and External processes

The Standard – and the published complaints handling process – should lay out the expectations for consumer experiences (which it currently does, albeit with arguably too much detail), with each provider then determining how best to execute these protections within their own internal policies.

If telecommunications providers are forced to align their internal policies, it will reduce choice in the market. Different value propositions are vital to provide choice to consumers in a well-functioning market, and providers are able to offer these to consumers because they have different operational structures.

The addition of a section on “documented internal processes” (Section 11) creates confusion – the Complaints Handling Process is the overarching public document which lays out the requirements and expectations for both the provider and the consumer. Each provider, based on their internal personnel and process structure, will have different methods to incorporate those requirements internally, whether they be included in training documents, complaints procedures, customer service processes, or other.

We address the specific consumer protections in our comments on Section 11 below.

Identified problems and reasons to change

As we have laid out in previous submissions, the Standard was costly and time-intensive to implement. At this point, any additional or changed prescription runs the risk of creating more problems and taking resources away from providing service to consumers.

In light of this, we are concerned that there are no clear reasons explained for some of the proposed changes, and particularly that there is no explanation of what problems consumers are facing that they are intended to address.

While we understand that some of the changes were proposed resulting from Part A of the Consumer Safeguards Review process, this does not seem a useful resource to identify specific drafting changes for the Standard. The Review process was undertaken in 2018 – in fact, the report was dated 26 September 2018, less than 3 months after the Standard came into effect, leading one to the reasonable conclusion that the review was taking place in the first 1-2 months after the Standard commenced. Any problems identified – for example “inconsistency in how providers document, make available, and implement their complaint handling procedures”⁴ will have been largely resolved by now – over a year after the review, a year during which the ACMA has undertaken significant education, compliance, and enforcement activities on exactly this process.

We have identified some of the changes which we surmise may have resulted from the September 2018 review, and have specifically addressed those below. On the whole, we consider the review process undertaken during this consultation to be a significantly more relevant source of information, and considering that neither the TIO nor ACCAN made analogous recommendations in their published submissions, it appears that many of the problems raised in the review on this issue have likely been resolved.

⁴ *Part A: Complaints handling and consumer redress*, Consumer Safeguards Review. p 9.

Specific comments

We offer these specific comments in order of the Standard, not in order of priority.

Definitions

Complaint: Addition of "or on behalf of"

The proposed change to "complaint" is unnecessary and will add significant complications and risk of fraud.

As the definition of "consumer" includes a reference to the consumer's representative, "complaint" already includes complaints made on behalf of a consumer by their representative – either advocate or authorised representative. These are very clearly defined terms, with structures around them, to help providers provide appropriate customer service and manage fraud risk.

By adding in the terminology "on behalf of," it opens up the possibility that a provider could be flooded with complaints "on behalf of" a specific consumer, who had potentially posted they were having problems online, or a small business who had asked all of their customers to contact their provider on their behalf. This could overwhelm the customer service capacity of providers, while also diminishing the value and importance of a structured and specific complaints process by having it be overused and not reserved for Customers.

It additionally will allow people not authorised by the Customer to make complaints on their behalf, which, if the provider is then expected to communicate with that person per the terms of the Standard, leaves open the possibility that the person will receive personal information about the Customer and/or their service.

We understand from the ACMA that this change was proposed partially to address challenges the TIO was having in submitting formal complaints on behalf of a consumer. The TIO typically has established processes with providers, and regardless of established processes, Part 6, Paragraph 132 of the *Telecommunications (Consumer Protection and Service Standards) Act 199* provides that "A carrier or carriage service provider who is a member of the Telecommunications Industry Ombudsman scheme must comply with the scheme." There is no need for additional regulations to direct C/CSPs to comply with the TIO, but if there are process problems, Communications Alliance would be open to discussing with the TIO how we can resolve any ongoing issues.

With the already existing clarity that a reference to a consumer includes a reference to their representative, this change is unnecessary, and as outlined above, potentially damaging. We strongly recommend this change not be adopted.

Consumer

As noted in the introduction, we support the change proposed.

Internal escalation process and Internal prioritisation process

If Section 11 is retained as currently proposed, the numbering in these definitions does not align with it. Section 11 does not have a second subsection, and therefore they should read 11(b)(i) and 11(b)(ii).

Part 2 – Complaints Handling Process

7(1)(b) Establish a complaints handling process (implementation)

We do not object to the proposed change.

8(1) Minimum requirements – accessibility (contents of complaints handling process)

Implementation: Any change to a published document will require drafting, legal review, approval throughout the business, and then time to upload to the intranet and the website – noting that for most providers, there is a planned pipeline of other material which requires updating on the website, and this is not an action that can be carried out immediately. All of these actions require resources that are often already allocated for months – i.e., there is a pipeline of material that requires legal review, and typically a backlog on any information to be uploaded to a website or intranet. It is simply not possible to update a published process immediately.

As the proposed changes are not urgent and/or required to address significant problems, we strongly recommend a 3-month implementation period for any changes under Section 8.

Times, 8(1)(g) and 8(1)(j)

While we understand the intention of this change, the proposed language requires a change. Complaints Handling Policies cannot list store hours, as they vary by location, and may change depending on holidays or other circumstances. It should be clarified that policies can list that customers can make complaints “during store hours,” or other similar language.

Additionally, we are concerned about the Note included below, as “should” is not clear language for a regulation. Notes should be used to clarify, and not add a possible – but unclear – rule. We recommend the ACMA either remove the Note entirely or incorporate it into the clause as a clear requirement.

Members of personnel, 8(1)(l) and 8(1)(l)(ii)

We support the changes recommended in the language, with the caveat that it is unnecessary and problematic to move these requirements to Section 11. As 7(1) requires providers to implement a compliant policy, “stating that members of its personnel will” take these steps thus means that that the provider and its personnel are required to take these steps.

Similarly, requiring personnel to help consumers with special needs, disabilities, or other requirements is satisfactory, as it captures the appropriate consumer protection requirement. The steps that personnel will take to assist consumers might be included in training, manuals, ongoing briefings, policies, or other methods by which providers train and monitor their personnel, and do not impact the consumer outcome, which is that consumers receive the needed help to make, formulate, and progress a complaint.

We note that if the edits are progressed as currently drafted, in 8(l)(ii), there is an extraneous “to” after the struck words that should also be removed.

If the ACMA considers that these specific requirements must remain as written, then – as addressed in the above section on “Separation of External and Internal Policies” – we strongly recommend that they remain as currently written, and are not moved to Section 11.

Steps in the process, 8(1)(n)

We support the removal of the words “in sequence” in this section, as it will allow providers to more effectively communicate with consumers as is appropriate to their specific complaint and circumstances.

We strongly recommend that 8(1)(n)(i) read: “a reference number [or other such measure](#)” to align with the current requirement in 20(1)(b) – otherwise there will be significant changes required for some providers who may not use a “number” as a unique identifier.

We do not object to the other changes proposed in this section.

8(2)(a)(ii) Minimum requirements – accessibility (internal documentation)

We object to the proposed change.

It is unnecessary, as providers must ensure their staff have access to the information and training relevant to their roles for compliance with any regulation, Code, or legislation.

The proposed change could also be detrimental. As previously mentioned, best practice regulation should be targeted at outcomes for consumers. Detailing how providers interact with their staff unfortunately has the opposite effect, as it leads to providers having to spend more time on documenting compliance steps and minimises the ability to adapt and innovate in customer service.

Finally, if the proposed addition of 11(b) is not adopted, this section would no longer be relevant.

8(3) Minimum requirements – accessibility (website)

We do not see justification for this change, as customers must already be provided information on how to contact the provider – and thus how to make a complaint – from the website.

We understand that Part A of the Consumer Safeguards Review made a similar recommendation, but as noted previously, we do not see how the findings of a review in the first 2 months of implementation could accurately reflect consumer experience now that the Standard has been fully implemented across the Industry.

The process to design, create, and structure a homepage can be a lengthy one – especially considering that they are already required to contain a significant amount of information under a range of regulations and rules. Any changes can be complex – whether for large organisations, because there is a process of request, approval, resourcing and a timeline of scheduled changes for any alteration to the website, or for extremely small providers who often outsource the maintenance of their website and must pay for any changes.

Requiring a change to the homepages of all providers does incur a cost – regardless of the size of that change – and in this case there has been no problem identified which requires this change.

Implementation: If the ACMA does choose to retain this provision, due to the resources required for any change to a website, we recommend a 3-month implementation period for this clause.

9 Minimum requirements – timeliness

We agree with the overarching intention of these changes, but have some concerns about the specifics.

The proposal to identify relevant time periods set out in paragraph 8(1)(n) is not possible to implement, because some of the steps do not have established timeframes (as appropriate, as each complaint is different). We have analysed each step in the table at the end of this section.

We agree with the removal of many of the timeframes from Sections 12, 13, 15, and 17. As providers are required to implement a complaints handling process that aligns with the

standard – regardless of which steps must be documented in that process – providers must still abide by these timeframes, and the unnecessary level of detail can create confusion for customers.

Industry fully supports that customers should be informed of what they can expect during the complaints process, and thus we recommend that a complaint handling process identify the time periods from the following subsections:

- 8(1)(n)(i) and 12(2)(b): Acknowledgement of a complaint received by email, website, post, or a recorded telephone message within 2 working days of reception – noting that as other complaints are acknowledged immediately it is not necessary to specify that.
- 8(1)(n)(iv) and 13(1)(g): Confirmation of proposed resolution within 15 working days of reception of complaint
- 8(1)(n)(ix) and 13(1)(h): Information on urgent complaints

These give customers an excellent understanding of the timeframes associated with complaints, and what they can expect upon lodging a complaint. Additional detail seems unnecessary and may, in fact, create confusion for customers.

Specific examples of unnecessary detail

8(1)(n)(vi): For the implementation of a proposed resolution, the timeframe is dependent upon agreements with the consumer, whether the complaint is urgent, and ultimately, many resolutions are implemented much sooner. This information is part of the communication with the customer when proposing the resolution, and ultimately providers must still abide by the 10-day requirement regardless of its inclusion in the published process.

14(2): There is potential confusion created by the relationship with this clause and 13(1)(g). Under 13(1)(g), CSPs are required to provide a proposed resolution within 15 working days – the acceptance of which is entirely dependent upon the consumer – and 14(2) has the same 15 working day timeline, but the requirement is to resolve the complaint. Due to this potential confusion, and as 14(2) only applies in the limited circumstances of a delay, it would not benefit customers to have these details included in the published process – noting, once again, that this does not alter the provider’s obligation to abide by this requirement.

Relevant time periods associated with steps in 8(1)(n) and section 14

This table below is included to directly address each section of 8(1)(n) and section 14 for ease of reference, to identify where there is not a clear timeframe.

Time periods we recommend be included in the complaints handling policy (see above) are highlighted.

8(1)(n) Or 14	Potential step	Timeframe	Timeframe clause (in draft of proposed revisions)
(i)	Communicating acknowledgement	Immediately, or within 2 working days of reception	12(2)(b)
(ii)	Initial assessment of a complaint	No relevant clause	
(iii)	Investigation of a complaint	No relevant clause	
(iv)	Response and proposed resolution	Propose resolution within 15 working days of reception	13(1)(g)
14	Delay	If not able to be resolved (which does not include implementation) within 15 days, as soon as practicable advise of: cause, new timeframe, and TIO if	14(2)

		delay will be longer than 10 working days.	
(v)	Communicating CSP decision in response	Unclear – potentially “as soon as practicable” after investigation?	13(1)(k)?
(vi)	Implementation of agreed resolution	10 working days of consumer accepting resolution, except where otherwise agreed, consumer did not take required actions, or urgent	13(1)(j)
(vii)	Closing a complaint	Unclear – potentially “as soon as practicable” after investigation?	13(1)(k)?
(viii)	Process by which consumer can refer a complaint to the TIO	No relevant timeframe	
(ix)	Urgent complaints	Propose resolution: 2 working days of reception	13(1)(g)
		Implement resolution: 2 working days of reception if consumer accepts proposal	13(1)(g)
14	Delay	If cannot be resolved w/in 2 working days of receipt, advise cause, new timeframe, and TIO contact where applicable.	14(3)

Implementation: In line with the changes to 8(1), all revisions to the published complaints handling process require an implementation period. We recommend 3 months.

10 Minimum requirements - transparency

We support the changes made to (a), (b) and (c) as they will make the process more understandable for consumers while allowing providers to continuously improve on the details of the procedures used to prioritise and escalate.

As noted in the following comments on Section 11, we do not support the re-introduction of the requirement from (g) to s.11(b).

Implementation: In line with the changes to 8(1), all revisions to the published complaints handling process require an implementation period. We recommend 3 months.

Part 3 – Complaints Management and Response Times

11 Complaints management

We understand the ACMA's intention was to streamline the published complaints handling process to make it clearer for customers, without removing any of the protections currently included in section 8. Industry strongly supports this goal, as information for customers should be as clear and concise as possible.

However, this can be achieved by adopting the revisions proposed to section 8, without adding subsections (b) and (c)(ii) to section 11, as the consumer protections are already provided for in other parts of the document. We have identified where each of these consumer protections sit in the Standard in the following table.

Requirement in 11	Requirement established	Relevant section (in draft of proposed revisions)
An internal process for prioritising complaints	Describe the process used to prioritise complaints	10(a)
	Advise the customer about its internal prioritisation process	15(1)(c)
	Commence internal prioritisation process	15(3)
An internal process for escalating complaints	Describe the process for escalating a consumer's complaint	10(b)
	Advise the customer about its internal escalation process	15(1)(d) and 15(2) (c)
	Commence internal escalation process	15(3)
	Follow appropriate internal escalation of a complaint	16(1)
Internal process for classifying complaints into different categories, which clearly describe each category	State that complaints are classified into categories, include a description of each category	10(g)
Internal process for helping consumers (including assisting customers with special or unique needs)	State that members of personnel will provide consumers with help...	8(1)(l)(ii)
Require personnel to clarify with a consumer if they wish to make a complaint if they are uncertain	State that members of personnel will clarify...	8(1)(l)(i)

We have strong concerns about the addition of prescription on an internal process. In addition to duplicating already established consumer protections, the expansion of the Standard's prescription of provider internal procedures ultimately has a negative impact on consumers, as explained in the earlier "Separation of Internal and External Processes."

As the intention of these changes is to streamline the published process, then that is already achieved by the proposed changes to preceding parts of the Standard, with no negative impact on consumer protection. In light of this, the proposed changes to section 11 are redundant.

Finally, there are already other requirements for internal processes under Part 4, 19(f) – adding more requirements under Section 11 could potentially create more confusion and overlap.

If the ACMA does not consider that the above outlined protections are sufficient, then we strongly recommend that the proposed changes to the other relevant sections and section 11 not be adopted, and retain the relevant parts of the Standard as they currently stand.

We also note that there is no paragraph 11(1). Thus, if retained, these should read 11(b)(i) and (ii).

Implementation: If the ACMA chooses to proceed with the revisions as proposed, we recommend a 3-month implementation period for the changes to section 11. While all of these protections are already provided for in other sections of the Standard, providers would need to review all internal process documentation to identify exactly where each protection sits so they would be able to provide this to the ACMA upon any information request.

12 Acknowledging Complaints

We do not object to this proposed revision.

However, we strongly recommend that it read: “a reference number [or other such measure](#)” to align with the current requirement in 20(1)(b) and our proposal in 8(1)(n)(i) – otherwise there will be significant changes required for some providers who may not use a “number” as a unique identifier.

Implementation: While most providers already follow this process, the change will require review of procedures, and for some providers it may require full process changes.

These would include re-training staff, changing training and reference material, and potentially major changes to IT systems as some providers may not currently have capability for front-line staff to provide a reference number/unique identifier upon immediate receipt of the complaint. In these cases, providers often have a complaints handling team reach out following receipt to provide the identifier, as that team has access to those records and/or relevant systems. In those circumstances this may require providing access to a different IT system or changing access settings on a shared system.

While we do not object to the changes proposed, a 3-month implementation period will be necessary for implementation.

13 Resolution of Complaints (Billing errors)

We generally do not object to this change.

However, billing error complaints sometimes include international roaming charges. The process to resolve these issues can be extremely complex and rely on responses from international providers, which unfortunately can't always be done within 40 calendar days. We recommend the addition of “unless otherwise agreed by the Customer” to allow for these circumstances.

15 Complaint prioritisation, escalation and external dispute resolution

Urgent Complaints, 15(1)

We do not object to this change.

Advice on further information, 15(2)(b)

We do not object to this change.

Commence prioritisation or escalation 15(3)

Although the Standard doesn't directly state that a provider must commence the escalation/prioritisation process, this change is unnecessary and over prescriptive. Naturally as part of a conversation with a customer about any such processes, the detail of how a customer can request they be commenced will be included.

Additionally, the new requirement means that customers who are not satisfied with the complaints handling process timeframes – regardless of if their complaint is urgent or otherwise meets the criteria for prioritisation/escalation – would have their complaint prioritised/escalated. This would unquestionably draw significant resources from complaints which are appropriately going through that process, leading to extremely negative consumer outcomes.

Finally, in review of the submissions to this process (and the Part A CSR report), no concerns have been raised that complaints are not being escalated or prioritised where appropriate, and thus do not see that there has been a need established for this change.

17 Attempt to make contact

While we do not see that it is necessary, we do not oppose the addition of a timeframe requirement for contact, but we are not sure where the exact proposed numbers came from. Five contacts over 3 days appears to be excessive, and from the information we have, arbitrary.

One recommendation from our members is that a minimum of 3 contacts over a minimum of 3 days would be more appropriate, especially considering that following unsuccessful contacts the provider must proceed with writing to the customer and giving them another opportunity to contact the provider.

Implementation: This requirement will require some providers to make changes to procedures, training, record keeping, and other aspects of their operations. In light of this we recommend a 3-month implementation period.

Part 4 – Complaints monitoring and analysis

19 (c) Requirements for monitoring and analysis of complaints and complaints handling process (take action)

We do not object to this change.

Part 5 – Complaints record-keeping

20 Requirements to keep records of complaints

Systematic, 20(1)

It is not clear what the intention of removing the word "systematic" from this requirement is. Once again, any changes made to this established Standard should be evidenced and designed to resolve a specific problem.

Paragraphs (1) and (2)

The proposed change is creating a duplicative requirement, with two requirements that a provider keep records of complaints. This is not necessary.

Due date of response, 20(2)(d)

We do not oppose this proposal, noting that there is no substantive change to the requirement.

Agreed resolution, 20(2)(f)

If (f) is now intended to capture the agreed resolution, for ease of readability, it should be moved to between (h) and (i), and read as follows (because it will otherwise duplicate the requirements under (d)):

If different than the original proposed resolution under (d), a description of the ~~proposed~~ agreed resolution of the complaint, including any associated commitments and the date this is communicated to the consumer;

21 Record retention

Time period (b)

We do not oppose this proposal, noting that there is no substantive change to the requirement.

Making records available (c)

We strongly object to the addition of this strict timeframe.

We note the ACMA's statement that the timeframe is consistent with the Continuity of Service and Consumer Information Standards. However, the records captured under this Standard are extremely different than those captured under the other two mentioned Standards, and will likely be in different software systems from them.

These records will contain personal information of customers and staff which need to be cleared by legal teams. They will also include notes by customer service staff which will need to be extracted, reviewed, and formatted (they often contain short-hand references which will not be of use to the ACMA). To pull these records is a costly and resource intensive exercise which for some providers may even require the system to be shut down or paused – impacting customer service.

Five days is an untenable and costly timeframe for this requirement, particularly as there is no clarification around what kinds of records would be covered (would this include the detail for every single complaint record required under Part 5, Section 20? Does it also include training and internal procedure materials for staff? etc.).

The ACMA has significant information gathering powers and undertakes data collection through various methods, including:

- its annual Communications Report, required under section 105 of the Telecommunications Act;
- informal investigations or requests for information from providers;
- formal requests for information under section 521 of the Telecommunications Act; and
- the *Telecommunications (Consumer Complaints) Record-Keeping Rules 2018*.

The resources required to respond to these requests for information, abide by the above rules, and also respond to ACCC record-keeping rules and other requests over the past year have been extreme, pulling staff away from resolving customer queries and complaints, working on proactive compliance, and analysing internal data to systematically improve customer experience.

If the ACMA contends that the above instruments are insufficient and requires a timeframe to be included in 21(c), 15 working days is appropriate, as it will allow providers to appropriately assign resources with less impact on customer service than a 5-day period.

Part 6 – Reasonable assistance

26 Responding to requests for reasonable assistance

We do not object to this proposed change to the timeframe to acknowledge a request for reasonable assistance, with the understanding that it only applies to clause (d) and not the other clauses under Section 26.

28 Requirement to keep records

As with Section 21, paragraph (c), we have significant concerns with the addition of this strict timeframe as, depending on the type of information requested, it may require significant work to combine or extract the exact information for some providers (whether they be RSPs, CSPs, or Carriers) due to their underlying system design. Our notes on that section apply here.



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