

23 December 2015

Mr John Stanton
Chief Executive Officer
Communications Alliance Limited
PO Box 444
MILSONS POINT NSW 1565

Dear Mr Stanton

Draft NBN Access Transfer Code (DR C647:2015)

The Telecommunications Industry Ombudsman (TIO) welcomes the opportunity to comment on the proposed draft NBN Access Transfer Code (DR C647:2015) (the draft NBN AT Code).

General comments

We are encouraged to see the development of an industry code that sets out the operational arrangements for the post-migration transfer of active national broadband network (NBN) services between retail service providers (RSPs) over the NBN. The draft NBN AT Code is timely, especially in light of the increasing number of activated NBN services, and the increasing number of NBN-related complaints recorded by the TIO.

We regard the objectives of the draft NBN AT Code, particularly clause 1.5.1(c) – to minimise customer impacts during the transfer of active NBN services between RSPs – as being critically important in facilitating the seamless transfer of active NBN services in the future. Overall, the NBN AT Code contains important safeguards, such as the consumer information requirements in Chapter 5, the specific transfer cutover benchmarks in Chapter 7, and the processes to deal with invalid transfer requests and reversals in Chapters 9 and 10.

We set out below several specific comments on areas that could be strengthened in the draft NBN AT Code, for the consideration of the Working Committee.

Specific comments

Definition of National Broadband Network

The National Broadband Network consists (or will consist) of a number of different technologies, including fibre, fixed wireless, satellite and Hybrid Fibre Coaxial (HFC) cable.

In the draft NBN AT Code, the National Broadband Network is defined under clause 2.2 as including “fibre, wireless and satellite” network elements. An NBN service is defined in clause 2.2 as including “an access service... over FTTP, FTTB, FTTN, HFC, Satellite...”.

Telecommunications Industry Ombudsman Ltd ABN 46 057 634 787

PO Box 276 Collins Street West
Vic 8007
Level 3, 595 Collins Street
Melbourne 3000

Tel freecall* 1800 062 058
Fax freecall* 1800 630 614
Telephone 03 8600 8700
Fax 03 8600 8797

TTY 1800 675 692
Email tio@tio.com.au
Web www.tio.com.au

* calls from mobile phones may incur charges

For avoidance of doubt, we recommend the definition of the National Broadband Network in the draft NBN AT Code include HFC cable, if it is intended that the Code applies to this type of technology.

Transfer general principles

Some of the general principles in Chapter 4 of the draft NBN AT Code set out specific responsibilities for particular parties, for example the gaining RSP or the Access Provider. However, it is unclear which party is responsible for some of these principles. For example, clause 4.1.11 which requires the availability of facilities for providing transfer request status updates in close to real time, makes no mention as to which party is responsible for this.

We suggest that wherever possible, these general principles make clear or specify the responsible parties concerned.

Customer authorisation content requirements

Clause 1.1.4 of the draft NBN AT Code makes reference to the Customer Authorisation Guidelines (G651:2015). It is unclear if these Guidelines have been finalised or made publically available. The draft NBN AT Code does not, however, make reference to the requirements of the Customer Authorisation Guidelines elsewhere in the draft Code, for example in Chapter 4 or Chapter 5.

Given industry's intent to consolidate customer authorisation requirements under the Customer Authorisation Guidelines, we recommend the inclusion of an obligation for RSPs to obtain a valid Customer Authorisation that complies with the minimum content requirements in the Customer Authorisation Guidelines. This obligation could be included in clause 4.1.2 and/or clause 5.1 of the draft NBN AT Code.

Customer authorisation validation

While the customer authorisation obligations in Chapter 5 of the draft NBN AT Code contain safeguards for appropriate Consumer Authorisation before any transfer of NBN services, clause 5.2.2 does raise questions about the circumstances in which the Access Provider may request to sight a Customer Authorisation.

Under clause 5.2.2 of the draft NBN AT Code, the Access Provider need not sight a Customer Authorisation before processing a transfer request. The draft NBN AT Code elaborates that a Customer Authorisation will only be requested by the Access Provider if there are reasonable grounds to believe that a valid Customer Authorisation has not been given by the customer. It is unclear what these reasonable grounds may be. Further, it is unclear when this clause would operate or if the Access Provider will deal with a disputed transfer request directly with a customer.

This lack of clarity could undermine the safeguards present in Chapter 5 of the draft NBN AT Code.

We recommend clause 5.2.2 of the draft NBN AT Code be amended to make clear:

- (i) the circumstances when the Access Provider could request to sight the Customer Authorisation, and
- (ii) if the Access Provider will deal with disputes raised by the customer about the validity of the Customer Authorisation.

Information requirements

A large proportion of NBN-related complaints to the TIO relate to problems connecting new NBN services. One area reported by consumers relates to the clarity of information given about the potential impacts to their existing services, and whether there will be any changes to their new services.

Clear and accurate pre-sale information is therefore important in the context of the transfer of NBN services.

The draft NBN AT Code sets out important information that gaining RSPs must advise their customers, before obtaining a Customer Authorisation, including:

- (i) clause 5.5.1(b), regarding the potential loss of a voice service and associated telephone number going into quarantine, when transferring from a voice service to a broadband only service, and
- (ii) clause 5.5.1(e), regarding whether the provider offers a battery backup option for the new NBN services.

These are important provisions that will contribute to better informed consumers. They address some of the common issues we see in NBN-related complaints.

To strengthen these safeguards further, we recommend the inclusion of:

- (i) reference to the requirements in the Telecommunications (Backup Power and Informed Decisions) Service Provider Determination 2014 in clause 5.5.1(e) or alternatively in clause 1.1.4 of the draft NBN AT Code, and
- (ii) information requirements regarding the impacts of transferring a VoIP (UNI-D) service to a voice service (UNI-V), such as for example, if the VoIP number is not a portable local number.

Ensuring service continuity

Service continuity is a critical element of any operational process concerning the transfer of services. We note clause 7.7.2 of the draft NBN AT Code, which outlines that where a transfer is to take place onto the same UNI/s that is being cancelled, the previous UNI/s is first cancelled before the new UNI/s is activated. We acknowledge that there are circumstances where this cannot be avoided, such as for Fibre to the Node (FTTN) services with a single UNI-D port.

We recommend that measures are included in the draft NBN AT Code to ensure the cancellation of a previous UNI/s does not adversely affect service continuity. Furthermore, it is important that these measures avoid situations in which telephone numbers are erroneously placed into quarantine upon cancellation of the initial UNI/s.

Code review

As the National Broadband Network is progressively rolled out and a wider mix of technologies introduced, it would be vital to ensure that the access transfer processes in the NBN AT Code continue to be refined, streamlined and improved.

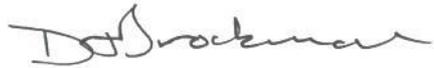
We recommend an initial review of the NBN AT Code within one year of registration, so that new issues arising from the transfer of NBN services can be quickly addressed and reflected in the Code through improved operational requirements. Subsequent reviews could be undertaken on a biennial basis until the rollout of the NBN nears completion.

Further information

We trust our comments are of assistance to Communications Alliance as it finalises the draft NBN AT Code.

If you require any further information from the TIO, please do not hesitate to contact Shobini Mahendra, Manager – Policy, Research and Systemic Issues on 03 8600 8700.

Yours sincerely



David Brockman

Executive Director – Industry, Community and Government