



Telecommunications
Industry
Ombudsman

Submission to the Department of
Communications and the Arts -
Review of the 2015
Telecommunications in New
Developments policy
January 2020

Introduction from the Ombudsman, Judi Jones

I welcome the opportunity to contribute to the review of the Telecommunications in New Developments Policy (**the Policy**).

It is important the Policy evolves to reflect significant developments within the telecommunications sector. There is a need to reflect NBN Co's status as the key provider of fixed-line infrastructure and consider consumer feedback on the operation of alternative infrastructure providers. The Policy should also align with the new Statutory Infrastructure Provider (**SIP**) Legislation.

My office is well placed to offer observations on end-user experiences of telecommunications in new developments. This submission provides case studies based on complaints received by my office, showing difficulties faced by consumers with the installation and quality of services. These difficulties highlight areas where the Policy can improve and support better outcomes for consumers and the industry.

We agree with the Department there is benefit in a revised Policy being shorter and more focused. A concise and focused Policy can reduce confusion and promote compliance, particularly for smaller developers and infrastructure providers. This in turn could increase success of new connections and reduce complaints.

As well as updating the Policy to reflect completion of the rollout of the National Broadband Network (**NBN**), the Department could consider clearly separating parts of the Policy which contain specific requirements on developers and infrastructure providers.

The submission offers observations on three of the key issues identified by the Department in its request for comment:

- 1 Network and service standards
- 2 Developer compliance, and
- 3 Infrastructure Provider of Last Resort (**IPOLR**) responsibilities.

Binding Network and Service standards should be introduced

We support the introduction of binding network and service standards for the installation of telecommunications infrastructure. Introduction of standards promotes consistent outcomes for consumers and guarantees a basic quality standard in the industry. It would also bring installation of telecommunications infrastructure in line with the policy approach in other key infrastructure areas, such as energy and water.

We agree with the Department's view there is an opportunity for network and service standards to be supported by State, Territory or Local Government planning laws. Peak industry body Communications Alliance could also be involved in the implementation and development of binding standards to ensure industry awareness, promote compliance with and strengthen practicality of the standards.

Any proposed network and service standards should set minimum requirements for:

- New telecommunications infrastructure installations in both new premises and knockdown-rebuild builds
- The installation and maintenance of the entire network installed in a new development, not just on the individual installations in the dwelling, to ensure the development's network can provide a stable connection to all premises within it
- How the new development's network will interconnect between alternative infrastructure provider networks and the wider Australian telecommunications network, and
- Both the internet connection and voice services for any new installation

Clear minimum requirements for installation would provide a safety net for consumers, which in turn ensures access to quality communications services.

Binding minimum network and service standards, supported by clear timeframes for when developers must arrange for the connection of telecommunications infrastructure, provides consumers with more straightforward recourse against a non-compliant developers and infrastructure providers.

Finally, network and service standards which support interconnection of alternative provider networks into the wider Australian communications network ensures the network is well placed to adapt to any future developments within the telecommunications sector.

Case study 1: Service unusable because of inadequate infrastructure

A consumer purchased a property in a development serviced by an alternative infrastructure provider. The consumer complained to us because their voice and internet service was unusable. Their service was not working because the development's network infrastructure could not support the level of use from the development. The consumer's retail service provider told the consumer the infrastructure provider could not afford to make upgrades to the network.

Implementing minimum service standards will provide a mechanism for improving inadequate network infrastructure.

Reducing developer non-compliance

Our complaints show new developments built by smaller or less experienced developers carry higher risk of telecommunications infrastructure not being connected. In some cases, this may be driven by a lack of understanding about compliance with the Policy.

We receive complaints where:

- the developer has failed to correctly place a request for connection before the sale of the new development
- the developer becomes insolvent before its application to install telecommunications infrastructure is completed (but after sale of the premise), or

- the developer has negotiated an exclusive arrangement with an alternative infrastructure provider and the consumer is dissatisfied with the performance of their service

It is important for the Policy to address areas of non-compliance by developers as non-compliance often results in delays in connecting telecommunications services and require consumers to arrange costly alternative services in the interim.

The Policy could require developers to arrange and settle payment for the connection of telecommunications infrastructure before the sale of newly developed premises. This change could be a particularly important protection for consumers who purchase off-the-plan from developers and may mitigate many of the issues faced by consumers from developers' non-compliance.

Case study 2: Consumer must wait six months for connection

In December 2017, the consumer asked their retail service provider connect telecommunications services to their new property. The retail service provider told the consumer that as their developer became insolvent before the order for connection, they were now responsible for providing NBN a 'pre-qualification' form arrange their telecommunications infrastructure to be connected. The provider told the consumer that once the form was submitted, it would take six months to arrange connection.

If the developer was required to arrange the connection of telecommunications infrastructure before selling the premises, this scenario is less likely to happen.

Case study 3: It took a consumer seven years to connect a service

In 2012, a consumer purchased a vacant lot which had been subdivided by the previous owner. The consumer built a new home on the subdivided land. In the same year and before moving in, the consumer contacted their retail service provider to arrange for the telecommunications infrastructure to be connected. The consumer's service was not connected until 2019.

The provider did not tell the consumer her area became NBN ready in 2014 and for another five years, she continued to deal with the incorrect Provider. The Provider eventually told her to take her application to NBN co. If the policy and process were clearer, both the consumer and Provider would understand the correct process more quickly.

IPOLR obligations should be strengthened

The IPOLR obligations should be strengthened to reflect NBN co's increased role as infrastructure provider. Updating IPOLR responsibilities to reflect recent changes, such as the nearing conclusion of the NBN rollout, will also make the Policy clearer and more concise.

Based on complaints we have received a consumer may experience poor outcomes with telecommunications infrastructure where a new development:

- is inside NBN co's footprint and is deemed 'non-serviceable,' which can leave consumers without fixed-line services for some time,
- is outside NBN co's footprint, and the consumer is only entitled to a wireless voice service as part of Telstra's obligations under the current Universal Service Obligation, or
- provides access to an alternative infrastructure provider's network with poor-quality service

Expanding IPOLR obligations to address these shortcomings would provide consumers with clarity on consumers' expectations for premises in new developed areas and on options if an alternative infrastructure provider has not provided a quality installation.

For instance, the IPOLR could be required to consider connection requests from a consumer in an area deemed to be 'adequately served' by an alternative infrastructure provider. Ideally, IPOLRs should be permitted to acquire and then maintain or improve problematic infrastructure.

We suggest IPOLR obligations are aligned with the SIP legislation and any changes to the Universal Service Guarantee to ensure every new development has consistent access to a quality voice and internet service.

Case study 4: Alternative infrastructure provider cannot provide service

A consumer moved into a premise serviced by an alternative infrastructure provider in 2017. Infrastructure had been installed at the premise, but the consumer could not connect any fixed-line service. He contacted his provider, who told him the alternative infrastructure provider was unable to get power to the development's network.

It would be a better outcome if the consumer had the option to request a fixed-line connection to an IPOLR