



Telecommunications
Industry
Ombudsman

Submission to the ACMA -
Proposed revisions to the NBN
Consumer Experience Rules
January 2020

Acronyms and abbreviations

ACMA	Australian Communications and Media Authority
Australian Consumer Law	Refers to Schedule 2 of the <i>Competition and Consumer Act 2010</i>
CSP	Carriage Service Provider
Complaints Handling Standard	Telecommunications (Consumer Complaints Handling) Industry Standard 2018
NBN consumer experience rules	Collectively refers to the Telecommunications (Consumer Complaints Handling) Industry Standard 2018, the Telecommunications (NBN Consumer Information) Industry Standard 2018, the Telecommunications (NBN Continuity of Service) Industry Standard 2018 and the Telecommunications Service Provider (NBN Service Migration) Determination 2018
NBN	National Broadband Network
Service Continuity Rules	Both the Telecommunications (NBN Continuity of Service) Industry Standard 2018 and the Telecommunications Service Provider (NBN Service Migration) Determination 2018
Service Migration Determination	Telecommunications Service Provider (NBN Service Migration) Determination 2018
TIO	Telecommunications Industry Ombudsman

Introduction from the Ombudsman, Judi Jones

I welcome the opportunity to comment on the ACMA's proposed revisions to the NBN consumer experience rules.

I support the proposed revisions aimed at making the rules clearer and closing potential loopholes. It is pleasing to see some of the proposed revisions are consistent with feedback from previous TIO submissions. I am also pleased ACMA is considering whether consumers need more information about co-existence and the difference between professional and self-installation of NBN equipment.

The roll-out of the NBN continues to be a major transformative event in the telecommunications service landscape. Throughout this time, my office has handled complaints from residential consumers and small businesses about services delivered over the NBN. In Financial Year 2019, my office received 11,635 complaints about connection or changing a provider and 23,362 complaints about service quality over the NBN.¹

This submission suggests areas for improvement in the proposed rules, to ensure they can be practically applied by industry and, where necessary, considered by my office.

These areas are:

1. Clarifying the proposed changes to 'alternative arrangements' in the Service Continuity Rules
2. Clarifying the proposed discounts under the Service Migration Determination
3. Closing a potential loophole in the Complaints Handling Standard

This submission also provides further feedback specifically requested by the ACMA on:

4. Whether consumers need more information about the difference between professional installation and self-installation of NBN equipment
5. Whether consumers need more information about how their service may be affected by the co-existence of NBN and legacy services during the migration period
6. The value of the requirements to prepare connection plans and technical audits

Finally, as I have stated in a previous submission, it is crucial for the industry to embed the ACMA's rules across their practices. As well the ACMA's monitoring and enforcement activities, CSPs could be assisted by the ACMA undertaking awareness raising, such as an education program or material summarising CSP obligations.

¹ These numbers relate to services delivered over the NBN. For more details, please see the Telecommunications Industry Ombudsman's [Annual Report FY19](#).

1. Clarifying the definition of 'alternative arrangements' in the Service Continuity Rules

In the Service Continuity Rules, the ACMA has proposed adding the criteria of 'reasonably offsets' the definition of 'alternative arrangements':

alternative arrangement means an arrangement agreed by the NBN CSP and the consumer, where the requirement to supply an interim service under Part 3 applies, which provides a benefit to the consumer that reasonably offsets the effect of the NBN CSP not supplying an interim service to the consumer...

We anticipate this proposed change will improve the consumer experience in situations where service continuity cannot be achieved. However, this revision would benefit from the inclusion of additional examples or further guidance, to allow assessment of the 'reasonableness' of alternative arrangements and the 'effect' of not receiving an interim service.

Under the proposed revisions, the effect of a consumer not receiving an interim service can usually be offset by the reconnection of a legacy service, or by payments to cover the cost of the consumer's mobile use. It is less clear how to assess the effect in situations where the consumer cannot be reconnected to the legacy service, and lives in an area where mobile services are unreliable or unavailable.

For example, we see complaints where rural consumers live in mobile black spot areas and rely on their landlines for emergency calls. The effect of not having an interim service could present a high risk to their safety. A reasonable amount of compensation for these consumers is open to interpretation and could range from the equivalent cost of a satellite phone to relocation fees.

Similarly, if a small business consumer is unable to receive an interim service that meets their business needs (e.g. the speeds are too slow for their daily usage), the effect of not having an interim service could be significant financial detriment. It is not clear whether a requirement to compensate for business losses was the intended purpose of this revision.

Case study 1: Calculating 'reasonable offset' for a bushfire-impacted consumer

The consumer lives in a rural area and had access to a legacy copper landline service and NBN services by satellite. There is no mobile coverage in the consumer's area.

After a bushfire, the consumer lost their landline service. The consumer complained to us after their provider was not able to offer any interim service or agree to an adequate discount of a satellite phone. Eventually the consumer eventually withdrew their complaint.

It would assist complaint resolution if there was clarity around what type of alternative arrangement would reasonably offset this consumer not receiving an interim service for the landline. This includes the extent of 'reasonable compensation' this consumer might be entitled to.

2. Clarifying the new speed discounts in the Service Migration Determination

The ACMA has proposed revising section 14 of the Service Migration Determination to require NBN CSPs to offer discounts to consumers who cannot be moved to a lower-tier plan.

This proposed revision should result in better consumer outcomes because currently consumers on the lowest-tier plans have no other recourse but to change providers. However, to assist practical application of this change, we see benefit in the ACMA providing more guidance on the discount the consumer would be entitled to.

The proposed revision does not define 'discount', which leaves it open to differing interpretations. We recommend the inclusion of a scale, measure, or example by which this discount could be calculated. For example, the discount could be:

- a percentage discount based on the attained speeds vs. the advertised speeds
- a discount calculated as a portion of the monthly data limit used (if any) or
- a 'reasonable discount', with examples of what the ACMA would consider reasonable.

Clarification would assist us in applying this provision to consumer complaints.

3. Closing a potential loophole in the Complaints Handling Standard

We welcome the ACMA's efforts to close potential loopholes in the NBN consumer experience rules.² Based on our complaints handling and systemic investigation experience, we would like to draw the ACMA's attention to another loophole on the accessibility of a CSP's complaints handling process.

We recommend the ACMA consider further adjustments to the Complaints Handling Standard to require CSPs to make all complaint methods (including telephone complaints) easily accessible to consumers.

Currently, the Complaints Handling Standard requires CSPs to permit consumers to make complaints by telephone, letter, email and online.³ In addition, a proposed revision now requires CSPs to ensure there is a link on the homepage of its website through which a consumer can access information about how to contact the CSP to make a complaint or enquiry and expressly states the contact information can be used for making a complaint.⁴

As demonstrated by the case study below, these rules do not prevent a CSP from taking steps to discourage, for example, consumers making complaints by telephone. This may disadvantage consumers who have no access to the internet, or who are from non-English speaking backgrounds.

² For instance, the proposed change to implement a complaints handling process in section 7 of the Complaints Handling Standard.

³ Section 8(1)(h) of the Complaints Handling Standard

⁴ Proposed revision to section 8(3) of the Complaints Handling Standard

Case study 2 – CSP makes it difficult for consumers to lodge complaint by telephone

We identified a trend of complaints from a CSP's customers about their difficulties with making complaints by telephone. When customers called the CSP's advertised customer support line, a recorded message directed their queries to the CSP's online chat system.

In one complaint, a customer told us they could not reliably report their fault via online chat, as they did not have a functional internet service. The customer's parents who resided at the same address were also computer illiterate, which made them unlikely to discuss the fault on the online chat system without assistance.

In response to our concerns, the CSP added a new complaints number to the Complaints Handling Policy on its website. However, this complaints number was not displayed on the CSP's 'Contact us' page and its main customer service line continued to advise its general enquiries and billing team was available exclusively on online chat.

While the CSP is technically compliant with the Complaints Handling Standard and will continue to be compliant under the proposed revisions, the practical effect is that its customers are being discouraged from making complaints by telephone.

4. More information about installation options would be beneficial

Both small business and residential consumers will benefit if more information is available about differences between professional installation and self-installation of NBN equipment. While handling complaints about connection problems, we see inconsistencies in how providers supply information about installation of NBN.

Improving the information available to consumers will allow them to make an informed choice about which installation option is suitable. The information could be in a document which outlined the 'pros and cons' of self-installation and professional installation of NBN equipment.

4.1 Reliance on consumer judgment

CSPs rely on consumers to judge whether professional or self-installation is appropriate considering their:

- level of technical knowledge,
- NBN access technology, and
- internal network needs.

This reliance can lead to connection problems, confusion and complaints.

Placing requirements on providers to have information available for both installation options, specific to each technology available on the NBN, will improve consumer decision making. And better consumer decision making will result in a smoother migration process and in many cases, increase the success of connections and reduce complaints.

Case Study 3 – Consumer who would have benefited from professional installation of NBN equipment

A consumer migrated their service to NBN, however was not receiving a stable service and complained to TIO.

The consumer told us she had made multiple complaints about the service to her provider, who couldn't explain the cause of the problem. Eventually the provider sent a technician to the consumer's home who deactivated all but one of the consumer's internal sockets. This fixed the consumer's service.

If the consumer had requested a professional installation, this issue may have been identified significantly earlier, saving time and money.

4.2 Installation information helps consumers who rely on communication services

Often vulnerable consumers also do not have the technical knowledge necessary for self-installation and are sometimes unable to afford a professional installation. While these rules cannot address the cost of a professional installation, further clarity about NBN installations can empower vulnerable consumers to either seek support for self-installation or make a more informed decision about whether a professional installation is worth pursuing.

Small business consumers are also at risk because of their reliance on their telecommunications services and the complexity of their internal networks. Improving the information available about installation of NBN equipment will assist small businesses in assessing which option is right for them.

Case Study 4 - Business loss from interrupted installation

A small business moved their telephone and fax services to NBN. This business relied heavily on its phones to make appointments and revenue. There were several interruptions to its telecommunications services during the NBN migration process, as well as problems with making the business' existing equipment compatible with the new NBN service. Eventually the business received more than \$20,000 in compensation for business loss.

If the business was aware of the benefits of a professional installation, it may have been in a better position to prevent its loss.

5. Managing expectations about co-existence

Providing more information to consumers about whether co-existence affects their services will assist in managing the expectations of the NBN network. Such a change would promote understanding of the co-existence issue, including that it should resolve once the disconnection date for NBN is reached in an area.

A better understanding of how co-existence may affect a service could reduce complaints about the speeds offered, particularly on the new Fibre to the Node connections.

6. Connection plans and technical audits may have value

We see value in the requirement to prepare a connection plan and audit as it is beneficial to consumers during extended migrations and connection delays. A CSP's plan to complete problematic migrations and connections supports:

- the completion the NBN rollout
- timely and effective resolution to connection issues, and
- the commercial interests of the providers

Because of this, we support the requirement to prepare a connection plan and technical audit. Currently, CSPs rarely supply us with connection plans or technical audits when we handle complaints about migration or connection of service to NBN.