

Preliminary View – 15 March 2023

Deidentified

This document sets out my Preliminary View on how this complaint about the provider from the consumer should be resolved.

My Preliminary View is the provider should pay the consumer \$4,525.40 within 14 weeks of accepting this Preliminary View.

The Preliminary View is what I believe to be a fair and reasonable outcome, having regard to:

- relevant laws (based on my view of what a Court would be likely to find in all the circumstances), and
- good practice, including industry guidelines.

23 August 2023

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1 Background

The consumer resides [in Australia]. She has a landline (XX XXXX XXXX) and internet service on the NBN.

2 The complaint and the provider's response

The consumer says from March 2020 to 28 January 2022, her landline service XX XXXX XXXX did not work.

She says:

- In March 2020, the provider disconnected her landline service without notifying her.
- In March 2021, she applied for the NBN because the provider said it was no longer servicing the copper lines in her area. Despite connecting to the NBN shortly after, the landline still didn't work.
- The provider told her it activated the phone number, ZZ ZZZZ ZZZZ on the NBN.
- On 28 January 2022, the provider changed her phone number from ZZ ZZZZ ZZZZ to XX XXXX XXXX (her previous landline number). The landline then started working.

She also says, between March 2020 and 28 January 2022, she didn't have access to a landline service. She says she reported the issue to the provider on a number of occasions. She wanted the provider to provide compensation under the *Telecommunications (Customer Service Guarantee) Standard 2011* (CSG Standard) and provide compensation for non-financial losses.

The provider offered her \$200 as a goodwill gesture. It said it wasn't liable for compensation under the CSG Standard nor for compensation for non-financial losses because:

- It did not disconnect her landline service in March 2020.
- She didn't report the fault to it.
- When she did report the fault to it, she was uncontactable afterwards.

3 The recommended outcome and the parties' response

On 30 September 2022, the Telecommunications Industry Ombudsman (TIO) issued a recommended outcome that found the provider's offer was fair and reasonable, and The consumer should accept the \$200 goodwill gesture it offered. This was because:

- The provider wasn't liable for compensation under the CSG Standard, as the consumer reported two faults and then wasn't contactable afterwards, and

- The provider wasn't liable for compensation for non-financial loss, as there's no evidence it failed in any of its obligations to the consumer.

The provider accepted the recommended outcome.

The consumer rejected the recommended outcome. She said:

- It did not reflect the time and effort she exerted in trying to resolve the issues with the provider,
- She reported more landline faults than just two, and
- The provider didn't keep accurate records of the faults she reported.

4 Reasons

In my view, the provider should pay the consumer \$4,525.40 in compensation under the CSG Standard. This is because:

- The provider's total liability under the CSG Standard is \$4,525.40, and
- The provider isn't required to pay the consumer any non-financial loss compensation.

Before I set out my reasons below, it's important to note I have not factored these into my reasons:

- The consumer changed the ownership of her fixed line services from her personal name to her business, The Business, in approximately October 2020. However, the landline XX XXXX XXXX was still billed to her, in her personal name, until 2 December 2021 – after then, ownership was changed for the landline service to The Business.
- The provider and the consumer have settled the issue on whether it should cover her service charges for that period.

This is because both of these issues are not relevant in determining whether the provider is liable under the CSG Standard or for non-financial losses.

4.1 The provider should pay the consumer \$4,525.40 in compensation under the CSG Standard

The CSG Standard controls the maximum connection and repair timeframes for landline services by telecommunications providers. Where a provider fails to rectify a fault or connect a service by the maximum timeframe, it needs to either pay a specified amount of compensation per day of the delay, offer an interim or alternative service, or claim an exemption from the timeframes.

In my view, the appropriate amount of compensation under the CSG Standard to be paid to the consumer is \$4,525.40. This is because:

1. Prior to the NBN service being connected, there were no faults recorded on the consumer's landline service.
2. The NBN service was connected on 26 March 2021.
3. After that, the consumer reported two faults with the NBN service.
4. The landline fault was resolved on 2 December 2021 by changing the phone number to XX XXXX XXXX.
5. The number of days where CSG liability accrues is 99, totalling \$4,525.40 in compensation.

4.1.1 There are no faults recorded for the consumer's landline before the connection of the NBN service

The TIO is an evidence-based independent dispute resolution body. We make our decisions on the balance of probability, and base it on the information we have available. In my view, there's no information to suggest the consumer reported any landline faults prior to April 2021.

The consumer says that her landline service, XX XXXX XXXX, stopped working in March 2020.

Throughout the complaint, the provider and the consumer were afforded opportunities to provide us with evidence. Both parties provided substantial amounts of information, including:

- Customer interaction notes for all of the consumer's accounts (including her associated businesses),
- Emails between the consumer and the provider, provided by the consumer.

I have reviewed all of this information and cannot identify any instances where the consumer reported any issue with her landline service prior to April 2021. The provider cannot be held to a maximum rectification timeframe under the CSG Standard where it isn't aware that a fault has occurred.

4.1.2 The consumer's NBN service was connected on 26 March 2021

The consumer placed an order for an NBN landline and internet service located at her home address, on 10 March 2021. It was activated on 26 March 2021.

The consumer says she placed this order because, around the time of 10 March 2021, the phone number XX XXXX XXXX was disconnected. She said the provider told her it was because it was no longer servicing the copper lines, and she was offered an NBN service with phone number ZZ ZZZZ ZZZZ.

There is however no evidence the provider disconnected the phone number XX XXXX XXXX around this time. Despite this, ZZ ZZZZ ZZZZ was connected within a timely

manner after the order was placed on 10 March 2021.

4.1.3 The consumer reported two faults with her landline service after 26 March 2021

After the service was connected on 26 March 2021, the consumer reported two faults that her landline service wasn't working:

1. On 20 April 2021, and
2. On 15 July 2021.

The circumstances surrounding these were both outlined by the TIO in our recommended outcome.

The provider isn't liable for the fault reported on 20 April 2021

The consumer told the provider on 20 April 2021 that she wanted the phone number, XX XXXX XXXX to be activated on the NBN. The provider submitted the order to change the phone number from ZZ ZZZZ ZZZZ to XX XXXX XXXX, but during its discussions with the consumer, it found she didn't have a working landline:

- On 21 April 2021, she told the provider that the handset was plugged in but it wasn't working.
- On 22 April 2021, the provider called the consumer and she said there was no dial tone. They tried to transfer her to its technical team, but instead they offered her a call back.
- On 23 April 2021, when they spoke again, she confirmed the landline wasn't working. The consumer mentioned a battery in the handset might need to be replaced, and she committed to getting the battery that weekend.

The provider noted that it wasn't able to complete the change of phone number because XX XXXX XXXX was active on account number AAAAAAAA.

After 23 April 2021, the provider tried to contact The consumer on more than 5 occasions. It was unable to reach her. It closed the fault on 11 May 2021.

The CSG Standard requires customers to cooperate with service providers when reporting landline faults. The maximum rectification timeframes may not apply if the customer has not cooperated with their service provider. For instance, if a customer unreasonably withholds agreement to appointments booked or proposed by the provider, or if the customer does not reasonably engage in troubleshooting with the provider, the maximum rectification timeframes would not apply.

In my view, had the consumer remained in contact with the provider following 23 April 2021, it may have been able to assist in rectifying her landline fault. Because it was not able to continue engaging in troubleshooting, it's unreasonable to hold the provider to the maximum rectification timeframes for the fault The consumer reported on 21 April

2021.

The provider should be held to the maximum rectification timeframes for the fault reported on 15 July 2021

I'm satisfied the provider is liable to pay compensation under the CSG Standard for the period after the consumer reported the fault again on 15 July 2021, until the date it was fixed.

On 15 July 2021, the consumer called the provider, told it that her landline wasn't working, and requested a technician attend to fix the problem:

▼ Case Description

Description

Reason: charged for service whilst not being able to use service

Details: Cx states that in march 2020 service to fixed line service stopped working

- Cx wanting credit for time not being able to use the service
- no notes in console or interactions in Siebel to show her contacting us about the service not working
- only notes about the issue visible in console on Cx business account from march 2021

- customer has been compensated for non use of service for \$140

- Cx request to escalate to credit management to be able to receive credit for amount before March 2021

- Cx wants fixed line to be working and requested faults to send out a technician to solve the fault as she has been back and forth since march

The provider hasn't provided any information about what it did following this.

I'm satisfied the provider should be held to its maximum rectification timeframes from 15 July 2021, through to when the service was fixed.

The fault was resolved on 2 December 2021

In my view, the fault was fixed on 2 December 2021.

There isn't sufficient evidence available to me to determine exactly when the fault the consumer was experiencing was fixed. There isn't any usage on services XX XXXX XXXX and ZZ ZZZZ ZZZZ before this date. There is however usage on XX XXXX XXXX between 1 January 2022 and 12 January 2022.

Regardless, the consumer confirmed the service started working when the provider changed the phone number from ZZ ZZZZ ZZZZ to XX XXXX XXXX - around December 2021 to January 2022. The provider confirmed that the consumer's phone number was changed from ZZ ZZZZ ZZZZ to XX XXXX XXXX on 2 December 2021.

On balance, I'm satisfied the fault was rectified on 2 December 2021 by the provider changing the phone number from ZZ ZZZZ ZZZZ to XX XXXX XXXX. This should be taken to be the date the provider's liability under the CSG Standard ends.

4.1.4 The provider's total liability under the CSG Standard is \$4,525.40

The CSG Standard says, for a landline service in a metropolitan area, the maximum rectification timeframe is within two business days. That is, the provider's liability under the CSG Standard starts accruing two business days after the fault is reported. It is calculated at \$14.52 per day for the first five business days, and \$48.40 for every business day after that.

Between 15 July 2021 and 2 December 2021, there are a total of 99 business days (excluding two Victorian public holidays and weekends). If The provider had two business days to repair the fault with the consumer, the appropriate amount of CSG Standard compensation is \$4,525.40:

- \$72.60 for the first five business days (\$14.52 per day), and
- \$4,452.80 for the remaining 95 business days (\$48.40 per day).

The provider should pay the consumer \$4,525.40 within 14 weeks of accepting this Preliminary View (in line with the *Telecommunications (Customer Protections and Service Standards) Act*).

4.2 The provider does not need to pay any non-financial loss compensation

The consumer was also seeking non-financial loss compensation for the issues she experienced with her landline service. In my view, we don't need to consider this request because her entitlement to compensation under the CSG Standard exceeds what the TIO could award for non-financial loss.

Where a provider does not fulfil an obligation to a customer, the TIO may award non-financial loss compensation up to \$1,500. Our [Factsheet on Compensation for Non-Financial Loss](#) says:

'The limits on the amount of compensation we can award are:

- A maximum of \$100,000 for complaints about privacy rights
- A maximum of \$1,500 for all other complaints.'

The consumer's complaint is not about privacy rights, so we may only consider compensation up to \$1,500 for non-financial loss.

However the factsheet also says:

'We will take into account goodwill compensation the telco may have given in connection with the circumstances of your complaint.'

Though compensation under the CSG Standard is not 'goodwill compensation' of the kind considered in our factsheet (in the sense that CSG Standard compensation is

specified under legislation), it is still compensation the TIO takes into account when determining whether to award non-financial loss compensation. Ultimately, the purpose of compensation under the CSG Standard is 'not to benefit customers financially, but provide carriage service providers with an incentive to meet performance standards.'¹

Because the consumer is entitled to \$4,525.40 in compensation under the CSG Standard, I'm satisfied no further compensation for non-financial loss should be paid by the provider.

Senior Lead – Dispute Resolution
Telecommunications Industry Ombudsman

¹ *Telecommunications (Customer Protections and Service Standards) Bill 1998*, Explanatory Memoranda, Part 5.