

**COMMUNICATIONS  
ALLIANCE LTD**



## **ACMA Consultation Paper**

New rules to protect consumers migrating to the  
National Broadband Network

Part 1: Improving management and handling of  
consumer complaints

COMMUNICATIONS ALLIANCE SUBMISSION  
APRIL 2018

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Communications Alliance welcomes the opportunity to provide this submission in response to the ACMA's Consultation Paper "New rules to protect consumers migrating to the National Broadband Network – Part 1: Improving management and handling of consumer complaints."

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We agree to the publication of this submission.

### **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>.

## Executive Summary

Industry shares the Minister's and ACMA's intention to improve customer experience, and has offered comments in this submission on how the proposed instruments can be most efficiently implemented towards that goal.

We have highlighted significant concerns with the costs required to implement the draft instruments as currently written. The Standard and Record-Keeping Rules (RKR) both focus on documentation and process to the detriment of consumer outcomes. The negative impacts of specific suggested rules are explained throughout the paper.

Two of Industry's foremost concerns with the Complaints Handling Standard are the unnecessary prescription for written contact to customers – the barriers to execute are explained in detail in this submission – and the proposal to apply the Standard retroactively. We offer detailed comments and recommendations on the draft Standard in Section 1 and Appendix A of this paper.

Industry is acutely alarmed by the proposed RKR which are in addition to the instruments outlined in the Minister's December Direction. As drafted, they would impose a large regulatory cost burden (requiring resources to be redirected away from the active resolution of complaints), but have not been considered with a public Regulatory Impact Statement. The proposed RKR, and publication of associated data, would be detrimental to the goals of improving customer experience or providing consumers with clear, comparable data.

Industry does not view that the RKR as drafted are appropriate or necessary but is interested to further engage with the ACMA on records which could more efficiently be confidentially provided to the ACMA, and proposes an expansion of the current Complaints in Context report as the preferred method to provide consumers with transparent, comparable data.

## Introduction

Communications Alliance welcomes the opportunity to comment on the ACMA's "Improving management and handling of consumer complaints" consultation paper. Industry appreciates the ACMA's ongoing consultation on how best to improve the consumer experience during the rollout of the National Broadband Network, and supports the goals of the Minister's Direction and related instruments.

We are concerned that the draft instruments in this consultation, particularly the draft Record-Keeping Rules, focus on administrative procedures rather than delivering better consumer outcomes.

The onerous and confusing requirements will drive up costs and require providers to dedicate resources to documentation and training processes, instead of resolving complaints and identifying root problems to improve experiences for consumers.

The short-form RIS undertaken prior to the publication of the Minister's Direction concluded that the regulatory impact of all 4 instruments would be \$1.49 million.<sup>1</sup> It is not clear if the RKR was included in this RIS since it was not part of the Minister's Direction, but regardless of if it was included, the estimate was unrealistic. Input from our members indicates that the draft Complaint Handling Standard – if implemented – would surpass that estimate alone, and implementing the draft RKR would be much more expensive.

The draft documents propose costly procedures which do not address a clear problem. ACMA research showed that "among all households who made a complaint, 20 percent of complaints were resolved on the same day."<sup>2</sup> Customers want resources appropriately targeted so issues with their service are resolved on the same day.

However, the draft Complaint Handling Standard proposes prescriptive communication methods, while the ACMA's research shows that only 3.6% of customers were dissatisfied with communications during the complaint resolution process.<sup>3</sup> Redirecting the resources required to comply with the procedures highlighted in our submission would be detrimental to the goal of the Standard as outlined in the Explanatory Statement for the Minister's Direction – "ensuring consumer complaints about the supply of services...are handled in a professional, effective and efficient manner."<sup>4</sup> ®

The misalignment between the goals and outcomes of the instruments is starker when considering the proposed Record-Keeping Rules. The intent of this instrument as stated in the consultation paper are to "enable the ACMA to monitor complaint levels" and "enable[e] consumers to make informed choices about providers, encourage better complaints-handling by providers."<sup>5</sup> Unfortunately, while these two goals are understandably aligned, they are not achievable with one instrument.

The current proposed statistics would severely drive up costs for industry, particularly smaller providers, require redirection of staff focus leading to increased complaint handling times, and if published, provide a false picture to consumers and damage individual providers and the industry.

A clarified problem statement and further consultation with Industry would identify more efficient and appropriate data and methods to enable the ACMA to monitor complaint levels, and Industry has thoroughly considered the goal of providing transparency to consumers and recommends a separate, unbiased, comparable set of statistics to do so. These are further discussed in detail in "Possible solutions" under Section 2.

Communications Alliance cannot state strongly enough how damaging the proposed Record-Keeping Rules would be if implemented. The costs have clearly not been appropriately considered

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<sup>1</sup> Explanatory Statement – Telecommunications (NBN Consumer Experience Industry Standard) Direction 2017. Pg 2.

<sup>2</sup> NBN consumer experience – residential research snapshot. ACMA March 2018. Pg 10.

<sup>3</sup> Ibid. Pg 10.

<sup>4</sup> Explanatory Statement – Telecommunications (NBN Consumer Experience Industry Standard) Direction 2017. Pg 6.

<sup>5</sup> ACMA Consultation Paper. Pg 8.

by the short-form Regulatory Impact Statement (RIS), and according to the Office of Best Practice Regulation's guidance, the circumstances and regulatory burden are not appropriate for a short-form RIS.<sup>6</sup> If the ACMA wishes to implement an RKR with the level of detail proposed, best practice demands an appropriate RIS be undertaken.

#### Implementation period

In this submission we have raised specific issues which would increase the implementation period. **If** our comments are taken onboard and the Standard and RKR are altered accordingly, we suggest that the three-month implementation period under the Minister's Direction is both appropriate and necessary.

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<sup>6</sup> <https://www.pmc.gov.au/resource-centre/regulation/short-form-regulation-impact-statements-guidance-note>

# 1. Complaints Handling Standard

## *Overall*

Industry supports the intention to align the new Complaints Handling Standard with the current Chapter 8 of the TCP Code. However, Communications Alliance has strong concerns about some of the alterations proposed – particularly the unnecessary and onerous level of prescription regarding written communication and the impracticality of applying the instrument retrospectively – but on the whole sees that we can continue to work with the ACMA to develop a practical and relevant regulatory framework that supports customers.

This submission is in addition to and aligned with the comments on the direct comparison between the proposed Standard and the current Chapter 8 of the TCP Code, which is included as Appendix A of this document.

### Communication Methods

In the ACMA's residential research snapshot on the NBN consumer experience, ACMA analysed the reasons that customers were dissatisfied with the complaints handling process (for those customers whose complaint was resolved at the time of the survey). If we reasonably assume that all customers would have similar feedback (including those who were unresolved and thus not surveyed on their satisfaction/dissatisfaction), the research would show that **only 3.6% of all customers surveyed were dissatisfied with the communication aspect of the complaints handling process.**<sup>7</sup> However, the majority of the unnecessary and costly prescription in the Standard is directed at communication. This means that costs will be raised and timelines will be increased to address a concern only shared by 3.6% of customers.

Prescribing that providers contact customers in writing presents significant difficulties, and prevents providers from communicating with customers in a manner which reflects customer preferences. Providers do not always have a written method of contact for customers for a variety of reasons, including incorrect or out of date postal or email addresses and use of alternative communications technologies (such as use of audio messaging, apps, chatbots, etc.) and at times, customers request not to be contacted in writing unless required by law. Customer service representatives will require appropriate training and upskilling on tasks which may not add to the customer experience and limit the take-up and use of new innovative communications technologies. Additionally, the review and approval process required for sending written communications to a large number of customers will redirect managerial level resources which would be more appropriately dedicated to resolving complex complaints. The additional resources needed to implement these obligations would also extend the implementation timeline, requiring more than three months to retrain and redirect budget funding from upgrades to services and new products. ®

Input from our members is that while customers are welcome to request written information on their complaints, a very small minority do so, demonstrating that these onerous and expensive obligations are not appropriately targeted at customer need and would not improve customer experience.

Timeframes are also challenging in the complex, multi-provider environment which the ACMA has acknowledged in their research, and do not allow for force majeure events or the every-day prioritisation which takes place for the benefit of the majority of customers.

We discuss these concerns in further detail in the "Questions" and "Comparison" sections below.

### Retrospective application (Part 7)

Proposed retrospective application of the Standard to complaints that are still unresolved at the time of the commencement of the Standard is impractical and should be amended to only apply to complaints that are being made after the commencement of the Standard.

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<sup>7</sup> NBN consumer experience – residential research snapshot. ACMA March 2018. Pg 10.

Retrospective application would require significant resources to review all open complaints, and may also place providers in technical breach of the Standard at the time it comes into effect. Additionally, providers may need to re-contact customers where the current complaint is being appropriately managed, creating unnecessary confusion and concern for the customer. Changing the method by which a complaint is managed in the midst of resolving it would be confusing for customers and staff. There should be a commonsense transition path for complaints which carry across both systems.

If the intention of the Standard is to improve customer experience, the resources required to update files and procedures on open complaints would be more appropriately directed towards resolving those open complaints.

#### Reasonable assistance

Industry has differing viewpoints on Part 6, further discussed in question 4.

#### Scope

Industry also holds differing viewpoints on the appropriateness of the Standard applying to all providers, regardless if they provide services delivered over the NBN.

Those providers that do not provide services delivered over the NBN have stated that the draft Standard goes beyond the Minister's original direction, which was intended to "improve consumer experiences with services supplied using the national broadband network (NBN)."<sup>8</sup> Other members feel that it is appropriate to apply the same practices to all providers across industry.

We recommend the ACMA refer to individual submissions for further information.

#### Relationship with TCP Code

Communications Alliance notes that this is being discussed by Working Committee 84, presently undertaking the revision of the TCP Code. Industry wishes to reiterate its stance that Chapter 8 of the TCP Code be removed while the Standard is in force in order to prevent potential duplication and confusion for suppliers. ®

Additionally, it will be necessary to address the timing overlap between publication of the Standard and registration of a revised TCP Code. Overlap between the two would cause significant confusion and compliance challenges. Registering a variation of the TCP Code removing Chapter 8 at the same time the Standard comes into force would be the most efficient method to resolve this concern.

#### Future of the Standard

As stated, Industry supports the intention to improve customer experience during this time of disruption. Following the nbn roll-out, it will be important to review regulation to remove unnecessary prescription which may be slowing processes and preventing Industry from developing innovative methods to communicate with customers and improve their service. Additionally, the recently announced Consumer Safeguards Review<sup>9</sup> may lead to changes in the overall co-regulatory system.

Co-regulation is a successful model, and has seen previous drops in complaints and improvements in Industry behaviour. Although Industry is facing unique challenges at the moment, there is ongoing dialogue within Industry, with consumers, and with government and regulators on how to adapt to these challenges. Successful co-regulation is a desirable outcome the government should continue to work towards. In light of this, we strongly recommend a sunset date be included in the instrument to trigger a review. This ensures Industry can continue innovating and adapting to quickly shifting consumer preferences and available technology.

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<sup>8</sup> Explanatory Statement – Telecommunications (NBN Consumer Experience Industry Standard) Direction 2017. Pg 1.

<sup>9</sup>

[http://www.minister.communications.gov.au/mitch\\_fifield/news/government\\_announces\\_telecommunications\\_consumer\\_safeguards\\_review#.WtaxVlhuaCg](http://www.minister.communications.gov.au/mitch_fifield/news/government_announces_telecommunications_consumer_safeguards_review#.WtaxVlhuaCg)



## Questions raised in Consultation Paper

1. Does the draft Standard properly protect telecommunications consumers who make a complaint to their provider?

While the current TCP Code Chapter 8, in combination with the other safeguards via the TIO and ACCC, properly protect consumers, we have concerns the increased obligations with respect to customer communications and complaint management timeframes in the draft Standard, described in this submission, will lead to increasing costs, customer complaint resolution timelines, and not achieving the Minister's objective of improved complaint handling performance and transparency.

We therefore recommend acceptance of the changes recommended in this submission, particularly those regarding written communication methods and retrospective application.

2. Are there any additional measures that should be incorporated into the Standard?

In regards to consumer protections, as stated in our response to Question 1, Industry does not feel that additional measures should be incorporated.

Industry has differing viewpoints on measures impacting upstream providers. We recommend the ACMA consider individual submissions on this question.

3. In the circumstances identified below where we have proposed a new time frame for an obligation currently existing under the Telecommunications Consumer Protections Code (TCP Code), are those time frames appropriate? If not, why not?

- Section 8(1)(c): Complaints handling process *made available as soon as practicable*

As stated in the comparison, we request clarity on 'made available.' Our view is that CSPs should ensure the complaints handling process is available and accessible on its website and CSPs can direct customers to the relevant information as needed. Of course, CSPs will continue to communicate information to customer wishing to make a complaint of their rights and how they can make a complaint. ®

If it is intended that the CSP must send the complaints handling process – via email or mail – to the customer, then this is not appropriate and adds unnecessary expense and complications. Consumers may not wish to provide a written contact. Often complaints will be resolved on the same day, prior to the customer even receiving the complaints handling process, necessitating additional expense, staff, and resources for no benefit.

- Section 14(1): CSP must advise consumers of any delay *as soon as possible*

Industry supports the intention but recommends "as soon as practicable" instead of "as soon as possible" to address concerns regarding competing priorities and the practicalities of complaint management – for example, resolving a major fault, or discovering that there is a delay but working to resolve it before the delay has any significant impact.

- Section 15(1): CSP must *within 5 working days of communication expressing dissatisfaction with times/seeking to have complaint treated as urgent, advise consumer about internal prioritisation/escalation/external dispute resolution.*

Industry feels the "5 working days" requirement is unnecessary.

There is concern that providing the information on external dispute resolution at this stage will prevent the provider from having the opportunity to resolve the consumers dissatisfaction via internal escalation. Where appropriate, internal escalation is the most efficient method to resolve customer complaints. If the customer chooses to go to the TIO prior to this opportunity, it may increase the burden on the TIO while not benefiting the customer.

- [Section 16\(2\): Within 5 working days of CSP deciding they cannot do anything more, or that complaint is frivolous/vexatious, advise consumer \*in writing\* of decision and external dispute resolution processes.](#)

While Industry understands the intention of advising consumers within 5 working days, there are concerns that if there is a major fault or other competing priorities, it may not be preferable to focus communication efforts on a frivolous complaint. 10 working days, or “as soon as practicable,” may be more appropriate. It is important to note that in these cases, providers have internal motivations to notify customers, in order to properly resolve and close cases where possible, and thus an additional regulatory requirement is likely unnecessary.

The stronger concern is the “in writing” requirement. As previously discussed, this could be impossible for providers to implement for providers where they does not have a current email or postal address for a customer, who use alternate methods for contact with customers, or who have been requested by the customer to not be notified in writing of outcomes. Providers should not be prevented by the Standard from communicating with customers by the customer’s preferred contact method.

Where appropriate, providers have incentive to notify customers in writing of their decision that they are unable to assist on a complaint, for clarification and records, and we recommend that this additional regulation is both onerous and unnecessary.

- [Section 17: Attempt to make contact for five consecutive working days.](#)

As highlighted in our initial comparison (Appendix A), this is one of the most problematic alterations to Chapter 8 included in the draft Standard. Industry realises that adapting the Code into a Standard is a complex process, and appreciates that it is possible that this was a misinterpretation of the code or error in drafting.

However, if the ACMA did intend to require providers to contact customers every day for 5 consecutive working days, this is an impractical and inappropriate requirement for many reasons.

- Customer preferences: Provider experience is such that our members expect customers to consider these contacts unnecessary, and potentially as harassment. There are a variety of reasons a customer may not be reachable for a period of days – holidays, work priorities, family emergencies, and other. <sup>®</sup>
- “Consecutive”: If a customer representative has a sick day, competing priorities, or is focused on resolving another set of complaints, or for any other reason, misses a single day, this requires the five-day period to re-start. This is onerous, unnecessary, and once again will likely lead to consumer complaints about the level of contacts.
- Method of contact: If the only working contact information a provider has is a postal address (which may be the case if there is a problem with that customer’s internet or phone service), this would require providers to send 5 letters in a row. With Australia Post not delivering every day, particularly in rural areas, this would result in customers receiving multiple of the exact same letter on the same day. Additionally, the postage and printing costs, and resources required for review and approval, would be unnecessarily costly and would remove focus from resolving complaints.

This requirement is unnecessary, detrimental to both customers and providers, and considering that the ACMA’s research showed that only 3.6% of customers are dissatisfied with the communications while their complaint was being handled<sup>10</sup>, we strongly recommend this requirement be removed and the requirements currently in the TCP Code directly replicated in the Standard.

#### [4. Part 6 of the Standard \(reasonable assistance\) sets out new obligations on carriers and wholesale CSPs to help retail CSPs resolve consumer complaints. Will the obligations in Part 6 be](#)

<sup>10</sup> NBN consumer experience – residential research snapshot. ACMA March 2018. Pg 10.

effective in helping retail CSPs to resolve consumer complaints that involve other entities in the supply chain?

Section 25: While there are a variety of perspectives on Part 6, there is agreement that Section 25 is useful in circumstances where the root cause of a complaint is unclear or outside the CSP's control, but that it is unnecessarily prescriptive and in fact will likely create more problems and slow any resolution processes. **nbn** is developing and improving portals to allow for efficient contacts from RSPs, and often problems are resolved more quickly by a phone call than a specific email. Other wholesalers may have other automated solutions for communications between the wholesaler and RSPs. Mandating an email prevents ongoing innovation by **nbn** and other wholesalers on how to improve communications with their downstream RSPs.

The obligation should simply be that the wholesale supplier must have suitable arrangements for communications in place to work with the supplier to resolve faults. Suggest:

- (b) notify relevant retail carriage service providers of contact details where they can contact personnel nominated as a contact person under paragraph (a), or make enquiries about, or request, reasonable assistance pursuant to this Part;
- (c) ensure that there are arrangements to monitor for requests for reasonable assistance via the nominated method of contact each working day

Reasonable assistance: The results of the ACMA's industry information gathering exercise is that the non-linear complex supply chain can present challenges for RSPs to update and inform their customers.

RSPs' view is that the lack of clarity on how upstream providers should support RSPs in meeting new requirements will prevent this from being effective. For example, wholesale providers are not bound by the same timeframes as RSPs which means it will be challenging for RSPs to meet their regulated timeframes.

This viewpoint is not shared by **nbn**, who sees that flexibility in a complex environment will be necessary. Please see individual submissions for further viewpoints and information on this point. <sup>®</sup>

All parties do recognise that further discussions is necessary on this point.

#### 5. Are there any elements of the draft Standard that are inconsistent with community expectation?

Absolutely. Community expectation is for providers to focus on resolving complaints in a timely manner and improving service. The requirements highlighted in this submission will redirect resources from resolution of complaints to unnecessary administrative procedures. Additionally, customers have expressed preferences for providers continuously innovating communication methods, which this level of prescription would prevent.

Specifically, the requirement to contact customers in writing is inconsistent with community expectations for providers to adapt contact methods to appropriately fit their customer base, and specific customer needs. Additionally, the suggestion to contact customers for 5 consecutive days is inconsistent with expectations of appropriate levels of contact from a provider.

#### 6. Are there any elements of the draft Standard that cannot be reasonably implemented or complied with for technical, operational or other reasons? For example, what are feasible time frames for the Standard to take effect, noting the three-month limit specified by the Ministerial Direction and the fact the Standard largely reflects the obligations in Chapter 8 of the TCP Code.

As Industry supports the intention to improve customer experience, this submission (and the associated Appendix) is focused on implementation and compliance concerns, and our recommendations are intended to address those.

If the new requirements of communicating in writing are retained, it will likely take longer than the three-month timeframe to appropriately implement, considering the need to ramp up resources and train/upskill a range of staff.

Additionally, the proposed retrospective application cannot be implemented without a significant slowdown in complaint management and high costs due to IT and procedural realities.

RSPs have also expressed concerns about the ability to abide by specific timeframes if upstream providers are not held to those timelines. This is not a viewpoint shared by all Communications Alliance by members.

### ***Comparison between Standard and TCP Code***

Appendix A, as previously provided to the ACMA, notes our concerns with specific clauses in direct comparison to the current TCP Code. If there are any questions on reasons or evidence for these concerns, please contact us and we will be happy to provide further information.

We have noted some additional concerns, or expanded on the reasoning behind a few previously identified ones, below.

- Section 8 (1) (j): It is inappropriate to identify all mentioned means of contact. Some providers only have limited methods to contact the provider – which is information provided up front when the customer chooses that provider, and is often a business decision to keep costs down in order to offer a low cost product to consumers who need or prefer this for their budget. Additionally, for providers who have storefronts, listing the addresses of all of these stores (which may also change often) in a complaints process is not practical and could add significant length to the documentation of the complaints process. This information is available on websites, and for customers who may not wish to access a website, they can call the provider and request the address of the nearest store. ®
- Section 8 (1) (k): It is not helpful to specify segments of society who may need assistance, as the first part of (k) – “require personnel to provide consumers with help to formulate, make and progress a complaint” – captures the principle of assisting all customers to make a complaint.
- Section 8 (1) (m): As stated in Appendix A, if it is intended that each complaint must follow every one of these steps, this is impractical. Complaints which are resolved in one contact, or one day, do not require each of these steps, and if it is required that providers follow each step for every complaint, it will make first contact resolution nearly impossible, having the opposite intent of the Standard.

It is possible that this was intended to state that the complaints handling process must set out how these steps work, and that they are followed as appropriate for each complaint. If this is the case, this needs to be clarified in the drafting, and would be supported.

- Section 11 (b) (iii): Classification of complaints by personnel: The TCP Code requires that Complaints are analysed and classified every 3 months to identify recurring problems. The proposed new process does not align with current procedures (i.e., ‘classification’ is not done by frontline staff, and they may not have access to systems allowing them to do it), so this would be a significant cost burden. It also goes beyond the ministerial direction, and thus the associated short form RIS, and the burden would necessitate a full RIS process.

Communications Alliance identifies this requirement as a priority to be removed or otherwise altered.

- Section 13 (a): We suggest that the wording here should be “commercially reasonable,” not best efforts. Considering the variety of CSP sizes and operations, CSPs must determine what will assist the majority of their unique customer base. For example, if there is a significant fault or natural disaster occurring at the same time as a separate complaint has come in, the CSP needs to be able to make the decision to focus on managing its resources for the greatest customer benefit, and then focus their efforts on the individual complaint.

- Section 13, (g), (h), (k): The prescription of written confirmation is problematic as previously discussed. Specifically, contacting the consumer with the proposed solution, followed by confirmation, will likely often result in consumers receiving information after the complaint has been resolved.

(h) is uniquely problematic because if a provider is required to await the acceptance of a proposed resolution – particularly if they have to communicate this in writing, not to mention if that is via the post, it is likely to prevent the provider resolving the complaint within 2 days. Additionally, consumers typically do not want to hear from their provider following the resolution of the complaint (as required by (k)). They have the option to request written confirmation if needed, but directing resources to drafting, approving, and sending (through multiple levels of management and review) unwanted communications is impractical and inappropriate.

Industry has extremely strong concerns about these 3 clauses, and we request further discussion with the ACMA on how best to re-work these to support outcomes which benefit customers.

- Section 19: This section is overly prescriptive and unclear. In the drafting, mentioning “in writing” multiple times (b, d, and f) is unnecessarily prescriptive and could increase compliance costs. For (f), it is unclear if the expectation is that suppliers must monitor and analyse complaints and make the processes to do so available to the people who monitor and analyse complaints. If that is the intention, drafting could be improved. Finally, what is the purpose of (b) if (a) already states a minimum of once every 3 months? ®
- Section 26: The Telecommunications (Consumer Protections and Service Standards) Act 1999 requires RSPs to enter into the Telecommunications Ombudsman Scheme. Reasonable assistance to the TIO is already required consistent with the TIO's terms of reference. This additional step of compliance is unnecessarily repetitive of existing obligations and too prescriptive.

## 2. Record-Keeping Rules

### *Overall*

The draft Record-Keeping Rules would be extremely costly to implement, will not provide meaningful comparative information for consumers, and do not contribute towards the goals of improving customer experience. The outcomes of implementing them would not align with goals from the Minister's Direction Explanatory Statement to "improve consumer experiences with services supplied using the national broadband network (NBN)."<sup>11</sup> In fact, they would extend complaint management times, inappropriately redirect resources, and not provide useful information to the ACMA or consumers.

The documentation requirements will lead to providers dedicating more time and resources to filling out onerous documentation than actually assisting customers or identifying, analysing and resolving systemic issues which may be leading to complaints.

Additionally, the extremely high costs imposed by the draft RKR need to be considered by a proper RIS. The short-form RIS undertaken in December was entirely inaccurate, as the RKR alone would cost far over \$1.49 million and it is entirely inappropriate to proceed with this RKR without undertaking a RIS.

Industry does not see that this RKR would have any positive impacts, and views that it should not be continued at this point. We have proposed an alternative solution to enabling consumer choice with complaints data, and the ACMA already has the necessary powers to gather data on complaints handling if they wish to undertake analyses or enforcement activities. Specific recommendations on altering the RKR in this submission do not imply that we support the RKR, even if those recommendations are taken into account, but could reduce a few of the most extreme barriers to implementation.

### Achieving outcomes

The consultation paper lays out a range of goals intended to be achieved by this instrument:

- make the handling of consumer complaints...more transparent...enable[ing] the ACMA to **monitor complaint levels** and **assess** whole-of-industry and individual providers' **level of responsiveness...**"
- "enabling consumers to make informed choices about providers, encourage better complaints-handling by providers..."
- ...and enable [the ACMA] to more effectively monitor complaint trends and levels."

Unfortunately, the goals of providing the ACMA with more information, and enabling consumers to make informed choices, cannot be resolved by the same instrument. Industry has spent significant resources and time considering options which would achieve this.

However, **the underlying differences in how providers have designed their business models, customer service, and complaint handling to best serve their specific customer base make it impossible to provide appropriately comparable internal data.**

Whether it is the interpretation of exactly what qualifies as a complaint, the differing training and levels of responsibility of front line staff, or the design of the customer relationship management or other IT systems, there are a range of internal reasons that the data points identified in the RKR would differ significantly between providers, and thus not be helpful information for consumers.

Industry is open to further conversations on what kind of data could assist the ACMA in analysis and enforcement – with the understanding that this information is only used by the ACMA.

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<sup>11</sup> Explanatory Statement – Telecommunications (NBN Consumer Experience Industry Standard) Direction 2017. Pg 1.



Separately, we have also considered the best method to provide consumers with unbiased, understandable, and comparable data on complaints, and proposed those under “Possible solutions.”

Our concerns and proposals are outlined in further detail below.

### Scope

There are a variety of viewpoints among Communications Alliance membership on if the RKR should only apply to RSPs who provide services delivered over the NBN, and CA suggests the ACMA consider individual submissions on this question.

## ***Questions raised in consultation paper***

### 7. Does the proposal for the RKR to apply to providers with 30,000 and above consumer services in operation mean that adequate complaints information will be available to consumers and industry?

There are a variety of views within Communications Alliance's membership on this point. Small providers would like to raise the significant impact this would have on operations.

However, it will be vital to further discuss this question in regards to publication of data, to ensure appropriate context and coverage.

### 8. Are there any elements of the draft RKR that cannot be reasonably implemented or complied with for technical, operational or other reasons?

Providers utilise a variety of IT and record keeping systems, most of which would require significant overhaul if the RKR was implemented in its current format. These requirements would necessitate additional staff, staff training, and pull focus from customers.

For example, it is clear that the majority of RSPs do not currently have the system capability to accurately record consumer complaints against the various NBN service technology types. This element of the RKR alone will require significant costs and additional time to fully implement. ®

Implementing the draft RKR would be so costly, we have been advised by some small providers it may drive them out of business, and it would have a significant impact on the costs and operations for all providers.

Specific concerns are:

Part 2, Section 9, (1), (c), First contact complaints: ‘Complaints’ resolved at first contact are required to be recorded, but this does not align with the definition of complaint in the standard. There is a risk of significant confusion and difficulty in capturing this data.

Part 2, Section 9, (2): Categorising complaints by types of Service in Operation would be difficult and require changes to systems (which often capture and record this information separately) and additional staff.

Part 2, Section 9, (3): While on the surface determining if a complaint is about connection, faults, or speed may seem straightforward, it would be extremely complex to do so for a significant portion of complaints. It is possible a customer interprets a fault as a speed concern, or that a customer explains the complaint as a connection concern when it is a fault, or any variation on the above. It would be nearly impossible to correctly categorise every single complaint, and customers would prefer providers focus on resolving concerns instead of categorising. Providers have developed methods to analyse complaints which are most appropriate for their operations.

Part 2, Section 9, (4): Similar to concerns with Section 9 (3), categorising complaints is costly and onerous, and 100% accuracy is not possible. Additionally, the question of what qualifies as a voice only service over the nbn requires further conversation. While some providers offer a clear ‘voice only service,’ some advertise a ‘voice only service’ but are simply selling a cheaper data plan

intended for people with low usage. These providers may not know, or be able to record, how customers choose to use their plan. Additionally, the lack of clarity between these two, and the possibility that complaints could mistakenly (or intentionally – as appropriate) be logged against both could skew the data.

Part 3: The cost and operational impacts of record retention require further consideration and discussion. Initial feedback from providers is that this could be costly, particularly for smaller providers.

Part 4, Section 11: Considering the detailed nature of the information required to be reported, the vague nature of Section 11 (2) (b) is concerning in that providers will need a significant amount of time to prepare reports, and if the format changes, that will require additional costs, resources, and review and approval time.

Part 4, Section 12 (1): If the requirements in the draft RKR are retained, 15 days is not a feasible timeframe in which to prepare the reports. The numerous records systems managed by large providers, and the limited resources of small providers, both make this timeframe unreasonable. Reports require multiple levels of review, and in regards to classification of complaints, will require significant analysis prior to being able to even initially input the data. It will require a minimum of 30 days to produce a report. Assuming the ACMA chooses to significantly alter the requirements of the RKR, Industry would be open to further discussing appropriate timeframes for reporting.

Complaint types: Service providers have developed the methods by which they classify complaints (as required under the TCP Code) to be appropriate for their operations, customers, and size. Changing the complaint types service providers must record against will be a lengthy and costly process, taking time and focus away from resolving complaints and delivering service to customers.

9. Are there any impediments for providers in meeting the level of detail proposed in the draft RKR? For example, what are feasible timeframes for the RKR to take effect, noting the three-month limit specific by the Minister's Direction?

The significant impediments, including resource restraints and IT systems, are noted throughout the submission. ®

As regards to the timeframe, as noted in the ACMA's consultation paper, this RKR was not part of the Minister's Direction. As it is not required to be implemented at the same time, and has raised serious concerns within industry, it is not appropriate to attempt to implement such a huge shift in operations as quickly as the remainder of the direction. As we further discuss in proposed solutions, we recommend withholding this RKR until a later date. If the ACMA does not wish to adopt the recommendations offered in this submission, then Industry requests an extended time period for consultation with the ACMA.

If the RKR is published at the time of the instruments outlined in the Direction, and is not significantly altered from the current Draft, 3 months is operationally impossible and would close down a number of providers. The changes required will be extremely costly and will require an overhaul of numerous technical systems, staff training, and the commercial plan due to those costs. We recommend 12 months to implement.

10. We propose that CSPs report their top three most prevalent complaint categories to the ACMA. Are the proposed complaint types appropriate to enable categorisation of consumer complaints? If not, what additional or alternative categories would you suggest?

Complaint categories have been designed by each provider to align with their business and customer needs. The proposed complaint categories do not align with how providers capture their complaints. Requiring providers to change the complaint categories used could require full and complete overhaul of Customer Relationship Management and other internal IT systems, in addition to annual reporting and other functions within the business. This is one of the more onerous and problematic proposals in the draft RKR.



As the TCP Code already requires classification of complaints, a possible solution is for providers report their top three most prevalent complaint categories **as classified by the provider** to the ACMA. The providers can also report the definitions of these categories.

11. Are there any additional measures that you would recommend including in the RKR? If so, why?

No, but please see below for “possible solutions.”

## ***Definition of a complaint***

While the TCP Code does contain the definition of a “complaint,” this is still an interpretable goal-post. In fact, one of our members has reported that different companies within their same group operationalise this differently. One company chooses to use more resources on analysis of complaint records, and thus encourages their front-line staff to log concerns as a complaint, while another operates by a more clear standard of what qualifies as a complaint because that is more appropriate for their customers.

These different definitions will make the data non-comparable for the public. As outlined above, companies may have perfectly good reasons to differ in how many complaints they log that do not reflect their customer experience.

The ACMA has proposed providing guidance on how to recognise a complaint, but implementing this guidance would require extensive staff retraining, updating of operational manuals and guidance, and impact the methods by which a provider chooses to handle concerns.

Additionally, this guidance has not been provided in draft form for discussion yet, and providers cannot comment about the appropriateness or feasibility of this requirement without further understanding the ACMA's expectations.

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## ***Cost***

As explained in submission, the exceptional costs required by implementing the proposed RKR – without any clear benefit - is one of the key concerns from providers. The lack of a full and public Regulatory Impact Statement, considering the expense required to implement, is inappropriate.

Implementation will require IT system changes, staff training, alterations to manuals, staff re-assignment, and further expenses. The Office of Best Practice Regulation's Australian Government Guide to Regulation outlines a range of questions to determine if a RIS is needed, including:

*“Is your proposal likely to affect regulatory costs (including administrative, substantive compliance costs and delay costs)? If so, how? If known, are the average annual regulatory costs likely to be:*

- o less than \$100,000*
- o \$100,000 or above but less than \$2 million*
- o \$2 million or more?”*<sup>12</sup>

The implementation of the proposed RKR would fall above \$2 million. With this in mind, we encourage the ACMA to engage with the Office of Best Practice Regulation on the next steps for a formal Regulatory Impact Statement.

Finally, the auditing requirements are concerning. Under the proposed rules, the ACMA has fairly broad abilities to require a provider hire an external auditor. An audit of the extensive requirements

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<sup>12</sup> <https://www.pmc.gov.au/resource-centre/regulation/australian-government-ris-preliminary-assessment-form-ris-required>

in the draft RKR would be extremely expensive, and there is a problematic lack of clarity around what qualifications need to be met in order for the ACMA to be able to require a provider to spend this significant amount of money. The ACMA is a well resourced organisation with many years of experience in monitoring and reviewing information flows from Industry. The demand for RSP's to use expensive external auditors should be seen as a last resort and the Standard should be amended to reflect this fact.

## ***Technology type***

All Industry parties agree that reporting technology access type is unnecessary, complex, onerous, and has no positive impact on the stated goals of the report. As previously discussed, the costs of the draft RKR will be prohibitive. Any streamlining of the prescriptive requirements will help bring down costs to a manageable level.

The focus of the Standard should be on improving the customer experience. Reporting on complaints by technology type will not assist the ACMA in determining the root causes of problems, and will require additional time and resources.

## ***Publication***

In addition to cost, Industry's other key concern the draft RKR is the lack of clarity around which information will be made public. Much of the required data could be considered commercial in confidence. Additionally, published raw data could be easily misinterpreted, and as discussed below, many possible public statistics are not comparable, and therefore offer no benefit to the public while potentially inappropriately damaging specific RSPs.

If the ACMA were able to clarify what data they will make public and what they will keep confidential, Industry would be more able to identify what data could be provided to the ACMA confidentially without significant cost and operational burdens. ®

Industry does understand that the ACMA has the intention to increase transparency in complaint handling. In considering this submission, Industry discussed possible types of data which could be published to achieve that goal. However, in those discussions we have identified significant problems with each possible idea. We have expanded on those difficulties here:

- Calls to service centres and ongoing complaints are increasingly focused on complex issues (as there are more self-help services for simple solutions), so looking at trends over time for complaints data – particularly for the length of time that complaints are open - would likely lead to inaccurate interpretations. While this could be contextualised in a report for the ACMA, a broad 'leagues table' for consumers would not allow for that context to be presented and explained across providers.
- Recording, reporting, and making public the length of time spent on complaint calls, or the length of time complaints remain open without further qualification, could encourage providers to focus on closing complaints as quickly as possible. This may remove the important balance of considering the satisfaction of the customer and create an incentive to take less time on incoming calls from customers.
- As discussed under "Definition of Complaint," if the raw number of complaints logged is published, it would lead to the tightening of the definition of complaint, instead of allowing companies to adapt. This is a problem because some providers are structured to focus on training front line staff to resolve concerns – which may mean longer wait times or smaller customer service teams, while others focus on training front line staff to 'triage' concerns, addressing what they can and logging a larger number as 'complaints' because it then redirects to staff with additional training. These may not be 'complaints' as the ACMA

would define them, but complex enquiries – however, each company has been able to develop a structure which is best adapted to their staff and customer.

These are just a few examples of the problems with publishing specific statistics. The potential for misinterpretation or skewed data would likely unnecessarily damage the reputation of individual providers and perception of the Industry as a whole, and yet still not provide useful, relevant, or comparable data to consumers.

## ***Possible solutions***

### ACMA data

As previously stated, Industry is eager to engage with the ACMA to develop appropriate solutions for the ACMA's perceived need for additional reporting data. If the intention is for the ACMA to understand the underlying problems in complaints, none of the data points proposed in the draft RKR will reveal those issues.

Having a clearer understanding of the information the ACMA feels it is lacking, and the goals of obtaining information above and beyond the recent information gathering exercise and other data collected in regular ACMA activities will help Industry develop detailed suggestions.

### Helping consumers

For the goal of providing consumers with comparable information for when they are selecting a service, Communications Alliance strongly recommends mandating an expansion of the current Complaints in Context report as the alternative to any internal data (the problems with which are outlined in the above section).

While Communications Alliance understands that the TIO does not receive all complaints customers have, the ratio between providers would be an appropriate representation of comparable performance for consumers. The TIO is an unbiased third party with data that is comparable across providers, and is already funded by Industry fees. ®

This empowers consumers to take this information into account when choosing a provider, instead of misleading them with potentially skewed and non-comparable data.

While Industry views TIO complaints data as more appropriate and helpful for consumers than the reporting of incomparable internal data, one provider has suggested a possible solution to consider - tracking complaint cycle times. This could possibly provide an indicator of improvements over time. However, this will require further discussion with Industry.

### Next steps

The Minister developed the comprehensive package proposed in December with the input of the ACMA's thorough information gathering exercise. The Minister did not include this RKR in that Direction, and Industry views that it should not be rushed through with the instruments were included in that package.

Our recommendation is to allow the Complaints Handling Standard to come into force, and for the ACMA to continue observing the results of the ongoing coordinated Industry efforts to improve customer performance. Once the results of these efforts become clear, the ACMA could begin the appropriate RIS process for an RKR instrument.

If the ACMA views that public comparable information is necessary in a shorter timeframe, we would recommend beginning the broader Complaints in Context reporting sooner (this could even be more often than the current quarterly report, although there would be some inherent challenges in verification of data on such a short timeframe).

## ***Record-Keeping Rules Conclusion***

While Industry does not view that the RKR is appropriate or necessary, we would be eager to participate in further detailed discussion on what types of records could be practically, and without significant cost or operational impost, included in an RKR and retained for reporting to the ACMA as appropriate – with the understanding that those records would remain confidential.

Additionally, this submission has focused on the overall concerns with the draft RKR and associated publication of statistics. Once the ACMA has considered this feedback and next steps, if the ACMA chooses to proceed with an altered RKR, we would appreciate additional engagement on details such as definitions (for example, the definition of “Services in Operation” requires further clarification), complaint types, records retention, and other parts of the draft RKR.

## Appendix A

The following is the Draft (Consumer Complaints Handling) Industry Standard as published by the ACMA, with direct comments in the document noting differences and comparisons to the current Telecommunications Consumer Protection (TCP) Code Chapter 8.



## **Telecommunications (Consumer Complaints Handling) Industry Standard 2018**

The Australian Communications and Media Authority makes the following industry standard under subsection 125AA(1) of the *Telecommunications Act 1997*.

Dated:

Member

Member/General Manager

Australian Communications and Media Authority

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**- CONSULTATION DRAFT -**

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## Part 1—Preliminary

### 1 Name

This is the *Telecommunications (Consumer Complaints Handling) Industry Standard 2018*.

### 2 Commencement

This instrument commences on the day after it is registered.

### 3 Authority

This instrument is made under subsection 125AA(1) of the *Telecommunications Act 1997* and in accordance with sections 5 and 8 of the *Telecommunications (NBN Consumer Experience Industry Standard) Direction 2017*.

Note The *Telecommunications (NBN Consumer Experience Industry Standard) Direction 2017* was given to the ACMA by the Minister under subsection 125AA(4) of the Act.

### 4 Application of industry standard

For the purpose of subsection 125AA(1) of the Act:

- (a) this industry standard applies to participants in the following sections of the telecommunications industry:
  - (i) carriage service providers; and
  - (ii) carriers responsible for network units that are used in the supply of services by carriage service providers; and
- (b) the content of this industry standard deals with the handling of consumer complaints about the supply of carriage services by carriage service providers and carriers listed in paragraph (a)(ii) in a professional, effective and efficient manner, and reporting about consumer complaints.

### 5 Definitions

In this instrument:

**ACMA** means the Australian Communications and Media Authority.

**Act** means *Telecommunications Act 1997*.

**bill** means an invoice from a carriage service provider which advises a consumer of the total of each billed charge.

**billed charge** means a charge that is due for payment by a consumer in respect of telecommunications products provided by a carriage service provider.

**billing period** means a period of time in relation to which billed charges relate.

**carriage service provider's website** includes a website controlled by a carriage service provider or another website it has endorsed for managing or receiving complaints.

**closed** when used in connection with a complaint, means a complaint that is no longer open in the carriage service provider's complaint management system and:

Commented [CG1]: NEW. Definition of endorsement?

Section 5

- (a) resolution has occurred and no further work is required by the carriage service provider; or
- (b) the carriage service provider is unable to resolve the complaint and sections 15, 16 and 17 apply and have been complied with.

**complaint** means an expression of dissatisfaction made to a carriage service provider in relation to its telecommunications products or the complaints handling process itself, where a response or resolution is explicitly or implicitly expected by the consumer.

It does not include an initial call to request a service, information or support or to report a fault or service difficulty unless a consumer advises that they want that call treated as a complaint, and does not include an issue that is the subject of legal action.

**complaints handling process** means a consumer complaints handling process established by a carriage service provider pursuant to section 7.

**consumer** means:

- (a) an individual who acquires or may acquire a telecommunications product for the primary purpose of personal or domestic use and not for resale; or
- (b) a business or non-profit organisation which acquires or may acquire one or more telecommunications products which are not for resale and which, at the time it enters into the consumer contract:
  - (i) does not have a genuine and reasonable opportunity to negotiate the terms of the consumer contract; and
  - (ii) has or will have an annual spend with the carriage service provider which is, or is estimated on reasonable grounds by the carriage service provider to be, no greater than \$20,000.

A reference to a consumer includes a reference to the consumer's representative.

**consumer contract** means an arrangement or agreement between a carriage service provider and a consumer for the supply of a telecommunications product to that consumer, and includes a standard form of agreement formulated by a carriage service provider for the purposes of section 479 of the Act.

**financial hardship** means a situation where:

- (a) a consumer is unable to discharge the financial obligations owed by the consumer under their consumer contract or otherwise discharge the financial obligations owed by the consumer to a carriage service provider, due to illness, unemployment, being the victim of domestic or family violence, or other reasonable cause; and
- (b) the consumer believes that they are able to discharge those obligations if the relevant payment arrangements or other arrangements relating to the supply of telecommunications products by the carriage service provider to the consumer are changed.

**internal escalation process** means the internal escalation process referred to paragraph 10(b).

**Commented [CG2]:** AMEND. Should be "or" as in Ch 8.

**Commented [CG3]:** RE-INSERT. The def. is almost the same but it does not pick up items (b) and (c) of the Rules on p.65 of Ch 8. Those are: "Complaints made in respect of, or on behalf of Consumers by entities levying fees..." and "Complaints under the Mobile Phone Base Station Deployment Code..." This content ought to be re-inserted.

**Commented [CG4]:** RE-INSERT omitted content.

**Commented [CG5]:** NOTE deviating ACL limit.



**internal prioritisation process** means the internal prioritisation process referred to paragraph 10(a).

**minimum requirements for consumer complaints handling** means the minimum requirements for the handling of consumer complaints set out in sections 8, 9 and 10.

**notified mass outage of service** means a mass outage of service that is the subject of a notice published in accordance with section 25 of the *Telecommunications (Consumer Service Guarantee) Standard 2011*.

**personal information** has the same meaning as in section 6 of the *Privacy Act 1998*.

**personnel** includes staff or contractors engaged by or on behalf of a carriage service provider.

**recorded telephone message** means a telephone message from a consumer making a complaint that is recorded without direct contact with personnel.

**representative** means the person who has permission from a consumer to deal with a carriage service provider on behalf of that consumer as their representative.

**resolve** when used in connection with a complaint, means to bring that complaint to a conclusion in accordance with the requirements of this industry standard.

**resolution** when used in connection with a complaint, means the outcome of bringing that complaint to a conclusion in accordance with the requirements of this industry standard, irrespective of whether the outcome is in favour of the consumer. It does not include the implementation of that resolution.

**telecommunications goods** means any goods supplied by a carriage service provider for use in connection with the supply of a telecommunications service, whether or not the goods are supplied in conjunction with, or separately from, a telecommunications service.

**telecommunications product** means telecommunications goods or a telecommunications service.

**telecommunications service** means:

- (a) a listed carriage service or any service supplied by a carriage service provider in connection with that service; and
- (b) a content service (other than a subscription broadcasting service or a television subscription narrowcasting service) provided by a carriage service provider in connection with the supply of a listed carriage service.

**TIO** means the Telecommunications Industry Ombudsman.

**urgent complaint** means a complaint where:

- (a) the complaint is made by a consumer who has applied for or has been accepted as being in financial hardship under that carriage service provider's financial hardship policy and where the subject matter of the complaint can reasonably be presumed to directly contribute to or aggravate the financial hardship of that consumer; or

Commented [CG6]: REVERSE ORDER.

- (b) disconnection of a service is imminent or has occurred and where due process has not been followed; or
- (c) it involves a priority assistance consumer and the service for which they are receiving priority assistance.

**working day** means a day that is not a Saturday, Sunday or gazetted public holiday in the location of the relevant carriage service provider.

Note: The terms “subscription broadcasting service” and “subscription narrowcasting service” are defined in the *Broadcasting Services Act 1992*. A number of other expressions used in this instrument are defined in the Act or the *Telecommunications (Consumer Protection and Service Standards) Act 1999*, including the following:

- (a) carriage service;
- (b) carriage service provider;
- (c) carrier;
- (d) listed carriage service;
- (e) network unit;
- (f) priority assistance;
- (g) section of the telecommunications industry;
- (h) telecommunications industry;
- (i) Telecommunications Industry Ombudsman; and
- (j) Telecommunications Industry Ombudsman scheme.

## 6 References to other instruments

In this industry standard, unless the contrary intention appears a reference to any other legislative instrument is a reference to that other legislative instrument as in force from time to time.

Note 1: For references to Commonwealth Acts, see section 10 of the *Acts Interpretation Act 1901*; and see also subsection 13(1) of the *Legislation Act 2003* for the application of the *Acts Interpretation Act 1901* to legislative instruments.

Note 2: All Commonwealth Acts and legislative instruments are registered on the Federal Register of Legislation.

## Part 2—Complaints handling process

### 7 Establish a complaints handling process

- (1) A carriage service provider must:
  - (a) establish a complaints handling process that includes the minimum requirements for consumer complaints handling; and
  - (b) comply with the minimum requirements for consumer complaints handling set out in its complaints handling process.
- (2) The carriage service provider's Chief Executive Officer (or equivalent) must approve the complaints handling process and be responsible for its implementation and operation.

**Commented [CG7]:** DELETE. In what way is the requirement to comply with the CH process different to the requirement to comply with the CH Standard? Concern if breach of a CSP policy is also a breach of the Standard.

### 8 Minimum requirements - accessibility

- (1) A complaints handling process must:
  - (a) be set out in writing;
  - (b) be made available to the public on the carriage service provider's website in a concise form that sets out the minimum requirements for complaints handling in paragraphs (d) to (m), sections 9 and 10;
  - (c) be made available to a consumer as soon as practicable after the consumer informs the carriage service provider they wish to make a complaint and where appropriate also made available to carriage service providers or carriers identified in Part 6;
  - (d) be free of charge for consumers to use;

**Commented [CG8]:** NEW. CLARIFY: If that means that it can be in writing on a website, then ok.

**Commented [CG9]:** NEW website requirement. Principle of making available (also on website) appears ok. Content itself and level of detail of what needs to be made available is discussed below.

**Commented [CG10]:** NEW. What counts as making available – website? CLARIFY that this is the case. Or is the intention that CSPs email/mail the process which would be totally impracticable. And does this also mean make available with the minimum requirements as per item (b) above?

**Commented [CG11]:** RE-INSERT CONTENT. 8.1.1 (a)(ii)B allows for charges in some cases. Re-insert clause to reflect original intent around charging.

Section 9

- (e) be focused on the needs and expectations of consumers making a complaint and be easy to understand and use;
- (f) state that consumers have a right to make a complaint; 8.1.1 (a)(v)
- (g) set out how and when a consumer can make a complaint and monitor the progress of their complaint; 8.1.1 (a)(vii)B
- (h) permit consumers to make complaints by telephone, letter, email, ~~fax~~ and online; 8.1.1 (a)(vii)C
- (i) permit consumers to make complaints in store, where the carriage service provider offers services at a physical location; 8.1.1 (a)(vii)D
- (j) identify the telephone number, email address, ~~fax number~~, web address and if relevant, the physical address of the store, where a consumer can make a complaint;
- (k) require personnel to provide consumers with help to formulate, make and progress a complaint, and set out steps to assist personnel to help consumers with special needs or disabilities, and consumers from non-English backgrounds or those suffering financial hardship; 8.1.1 (a)(vii)E
- (l) allow for consumers to nominate a representative to make and handle a complaint; 8.1.1 (a)(vii)F
- (m) set out in sequence each step in the process for managing a complaint, including the following steps:
  - (i) receipt of a complaint;
  - (ii) acknowledgment of a complaint;
  - (iii) initial assessment of a complaint;
  - (iv) investigation of a complaint;
  - (v) response to a complaint and proposed resolution;
  - (vi) communicating its decision in response to the complaint;
  - (vii) implementation of agreed resolution;
  - (viii) closing a complaint; and
  - (ix) the process where external dispute resolution applies; and
  - (x) set out procedures for identifying and handling urgent complaints, specifying how those procedures differ from handling ordinary complaints.
- (2) A carriage service provider must ensure that personnel dealing directly with consumers:
  - (a) are given access to a copy of the complaints handling process; and 8.1.1 (b)
  - (b) understand the minimum requirements for consumer complaints handling and their roles and responsibilities under the complaint handling process.

**Commented [CG12]:** NEW, DELETE. How would CPSs know what the expectations are.

**Commented [CG13]:** DELETE. While fax is included in Ch 8, it is completely outdated and an undue impost, especially for smaller providers, to accept complaints by fax. Neither Ch. 8 nor the Standard (correctly) include fax under Section 12.

**Commented [CG14]:** NEW, DELETE. In particular, physical address of store is completely impractical. But overall, too prescriptive.

**Commented [CG15]:** NEW, DELETE, unnecessary prescriptiveness.

**Commented [CG16]:** NEW, DELETE. This is supposed to mirror 8.1.1 (a)(vi) but is more prescriptive in that it lists the individual steps that the ACMA believes are involved and that CSPs need to communicate. For example, how does this sit with complaints resolved at first contact. It slows down process unnecessarily.

**9 Minimum requirements - timeliness**

A complaints handling process must identify the relevant time periods associated with each step in the complaints handling process, including the response times for managing a complaint set out in sections 12, 13, 14, 15, 16 and 17.

**Commented [CG17]:** This is supposed to mirror 8.1.1 (a)(vi). Ok in principle but see comments on individual requirements blow. Unnecessary/too prescriptive.

**10 Minimum requirements - transparency**

A complaints handling process must:

- (a) include a process for prioritising complaints that is clear, accessible and transparent for consumers; [8.1.1 \(a\)\(x\)A](#)
- (b) include an internal process for escalating a consumer’s complaints to a senior manager, which is clear, accessible and transparent and to consumers; [8.1.1 \(a\)\(x\)B](#)
- (c) require complaints to be escalated at the request of a consumer; [8.1.1 \(a\)\(viii\)B](#)
- (d) set out a description of how escalated complaints will be managed;
- (e) set out a dispute resolution process, which provides a consumer with the right to escalate a complaint to the TIO after the carriage service provider has been given a reasonable opportunity to resolve a complaint, and which includes details about how a consumer can contact the TIO; and
- (f) provide that a consumer’s telecommunications service cannot be cancelled for the sole reason that the consumer was unable to resolve the complaint directly with the carriage service provider and pursued options for external dispute resolution. [8.1.1 \(a\)\(x\)E](#)

**Commented [CG18]:** NEW, DELETE. Escalation is not always to a senior manager. This will depend on internal structures and size of CSP. Too prescriptive.

**Commented [CG19]:** NEW, DELETE. Managed the same but by different staff.

**Commented [CG20]:** AMEND. This is supposed to mirror 8.1.1 (a)(x)C but the language needs work – it is not the complaints handling process that confers the right to contact TIO. Re-phrase to state that provider needs to inform complainant about options for external dispute resolution incl. TIO. DELETE requirements to provide contact details. This is a requirement in the CIS already.

DRAFT

## Part 3—Complaints management and response times

### 11 Complaints management

A carriage service provider must ensure that:

- (a) its complaints handling process is managed by a senior manager who is required to maintain the effective and efficient operation of that process in accordance with the minimum requirements for consumer complaints handling; and [8.1.1 \(a\)\(iv\)](#)
- (b) its personnel dealing directly with consumers:
  - (i) manage and resolve complaints in an effective and efficient manner in accordance with the minimum requirements for consumer complaints handling; [8.1.1 \(a\)\(viii\)A](#)
  - (ii) treat consumers making a complaint with fairness and courtesy; and [8.2](#)
  - (iii) can identify, **classify** and record a complaint, as that term is defined in section 5. [8.1.1 \(c\)](#)

**Commented [CG21]:** NEW, DELETE. This is not helpful and is likely to increase already existing issues with complaint classifications that the industry has with regards to the TIO classifications. It involves major system upgrades and, consequently, unnecessary costs.

### 12 Acknowledging complaints

A carriage service provider must:

- (a) acknowledge a complaint received by telephone or in store immediately; [8.2.1 \(a\)\(i\)A](#)
- (b) acknowledge a complaint received by:
  - (i) email;
  - (ii) post;
  - (iii) leaving a recorded telephone message; or
  - (iv) through the carriage service provider's website,within 2 working days of receiving the complaint. [8.2.1 \(a\)\(i\)B](#)

### 13 Resolution of complaints

A carriage service provider must:

- (a) use best efforts to resolve a complaint on first contact; [8.2.1 \(ii\)](#)
- (b) implement processes for the identification, management and resolution of urgent complaints; [8.2.1 \(iii\)](#)
- (c) investigate a complaint to the extent that is commensurate with the seriousness of the complaint, where it is not possible to resolve a complaint to the satisfaction of the consumer at first contact or without an investigation;
- (d) ensure that its personnel understand what remedies are available to assist with the resolution of a complaint; [8.2.1 \(a\)\(iv\)A](#)

## Section 14

- (e) tailor any remedy offered to a consumer so that, as far as practicable, the remedy addresses the main cause of the complaint, and the individual circumstances of the consumer; [8.2.1 \(a\)\(iv\)B](#)
- (f) resolve complaints about alleged billing errors within the consumer's current billing period; [8.2.1 \(a\)\(iv\)D](#)
- (g) provide written confirmation of a proposed resolution of a complaint, within 15 working days of receiving the complaint;
- (h) provide written confirmation of a proposed resolution of an urgent complaint, and if the consumer accepts the proposed resolution, implement that resolution, within 2 working days of receiving the urgent complaint;
- (i) where a complaint is indicative of broader problem or systemic issue, seek to resolve the main cause of that problem or issue; [8.2.1 \(a\)\(iv\)C](#)
- (j) complete all necessary actions to implement a proposed resolution, within 10 working days of the consumer accepting that resolution, except where: [8.2.1 \(a\)\(xii\)](#)
- (i) otherwise agreed with the consumer; [8.2.1 \(a\)\(xii\)A](#)
- (ii) the consumer agreed to undertake actions to implement the proposed resolution by a specified time, but did not complete the actions as agreed; or [8.2.1 \(a\)\(xii\)B](#)
- (iii) paragraph (h) applies; [8.2.1 \(a\)\(vii\)](#)
- (k) provide written confirmation to a consumer that their complaint has been resolved, as soon as practicable after the carriage service provider completes its investigation of the complaint;
- (l) only close a complaint or an urgent complaint with the consent of the consumer, or where the carriage service provider has complied with subsection 15(2), and section 16 or 17. [8.2.1 \(a\)\(xiii\)](#)

**14 Delays**

- (1) A carriage service provider must advise consumers of any delay to proposed timeframes for managing or handling their complaint as soon as possible after becoming aware of the delay. [8.2.1 \(a\)\(ix\)](#)
- (2) Where a carriage service provider does not reasonably believe that a complaint can be resolved within 15 working days of receiving the complaint, the carriage service provider must as soon as practicable within that period advise the complainant of: [8.2.1 \(a\)\(viii\)](#)
- (a) the cause of the delay; [8.2.1 \(a\)\(viii\)A](#)
- (b) the new timeframe for resolving the complaint; and [8.2.1 \(a\)\(viii\)B](#)
- (c) of the avenues for external dispute resolution including the TIO, where it is expected that the delay will be longer than 10 working days and is not caused by a notified mass outage of service. [8.2.1 \(a\)\(viii\)C](#)
- (3) Where a carriage service provider does not believe that an urgent complaint can be resolved within 2 working days of receipt of the urgent complaint, the carriage service provider must as soon as practicable within that period, advise the complainant of the matters set out in paragraphs (2)(a),(b) and (c). [8.2.1 \(a\)\(vii\)](#)

**Commented [CG22]:** RE-INSERT "where this has been advised to the Supplier" is missing.

**Commented [CG23]:** AMEND. This reads slightly differently to the current code wording. Concern: if the customer's bill period ends in the next day or two, this may not be possible. Similarly, some changes can only be made from the next bill cycle onwards. This should be "best efforts" as per 13(a) above.

**Commented [CG24]:** NEW. AMEND TO REFLECT CH8!!! 8.2.1 (a)(v) provides for advising the customer of the proposed Resolution within 15 WD (but not in writing). 8.2.1 (a)(xiv) provides for written confirmation of the Resolution upon request where a complaint is being closed. This requirement is totally impracticable and counter-productive: front line staff not trained to write up comms, costly, time consuming, what about complaints resolved at first contact? Customer do not necessarily want to receive written comms for all sorts of complaints.

**Commented [CG25]:** NEW. AMEND TO REFLECT CH 8.. 8.2.1 (vii) does not require written confirmation and only relates to the urgent aspects of a complaint.

**Commented [CG26]:** NEW. AMEND TO REFLECT CH 8!!! 8.2.1 (a)(xi) does not provide written confirmation. Also what if proposed resolution and actual resolution are the same (likely)? Impractical, counter-productive, see comment above.

Section 15

**15 Complaint prioritisation, escalation and external dispute resolution**

- (1) Where a consumer communicates to a carriage service provider:
  - (a) that they are dissatisfied with the response times that apply to the handling or management of their complaint; or [8.2.1 \(b\)](#)
  - (b) that they want their complaint to be treated as an urgent complaint, [8.2.1 \(b\)](#)a carriage service provider must within **5** working days of receiving that communication advise the consumer about:
  - (c) its internal prioritisation process; [8.2.1 \(b\)](#)
  - (d) its internal escalation process; and [8.2.1 \(b\)](#)
  - (e) **options for external dispute resolution, including the TIO.**
- (2) Where a consumer:
  - (a) communicates to a carriage service provider that they are dissatisfied with the progress or resolution of a complaint; or [8.2.1 \(c\)](#)
  - (b) enquires about their options to pursue a complaint further, [8.2.1 \(c\)](#)a carriage service provider must advise the consumer about:
  - (c) its internal escalation process; and [8.2.1 \(c\)](#)
  - (d) options for external dispute resolution, including the TIO. [8.2.1 \(c\)](#)
- (3) A carriage service provider must not commence legal proceedings against a consumer that has the same subject matter as the complaint:
  - (a) while a complaint is being handled internally and for 7 working days after a consumer is advised of the outcome of their complaint; [8.2.1 \(a\)\(v\)](#)
  - (b) **where part of the amount on a bill is the subject of an unresolved complaint; or**
  - (c) **while a complaint is being investigated by the TIO.**

**Commented [CG27]:** NEW. 8.2.1 (b) does not stipulate a timeframe.

**Commented [CG28]:** NEW, AMEND TO REFLECT CH 8. 8.2.1 (b) expressly states that only after prioritisation and escalation have been unsuccessful, advice about TIO is required. Note that customers are getting the false hope that turning to the TIO will resolve their complaint faster or on behalf of them.

**Commented [CG29]:** DEVIATES. 6.9.1 (a) stipulates that no credit action is being taken in such circumstances. 6.7.1 (e)(vi) talks about debt. In the end it may boil down to the same though. TBD.

**Commented [CG30]:** see item (b) above.

**16 Frivolous or vexatious complaints**[8.2.1 \(d\)](#)

- (1) If, after careful consideration and appropriate internal escalation of a complaint, a carriage service provider reasonably concludes:
  - (a) that it can do nothing more to resolve the complaint or assist the consumer; and
  - (b) that the consumer's behaviour, or complaint is frivolous or vexatious,the carriage service provider may decide not to deal with the complaint.
- (2) **Within 5 working days of making a decision not to deal with a consumer under subsection (1), a carriage service provider must advise the consumer in writing of the reasons for its decision and options for external dispute resolution, including the TIO.**
- (3) Where a carriage service provider advises a consumer in accordance with subsection (2), it is not required to accept any further complaints from that consumer on the same or similar issues, except as a part of an external dispute resolution process.

**Commented [CG31]:** NEW. 8.2.1 (d) does not stipulate a timeframe nor does it have the in writing requirement.



**17 Attempt to make contact**

If a carriage service provider is unable to contact a consumer to discuss their complaint or to advise them of the proposed resolution of their complaint, despite attempting to do so for 5 consecutive working days, the carriage service provider must write to the consumer:

- (a) advising that they were unable to contact them; [8.2.1 \(e\)](#)
- (b) provide details of its contact attempts on each of those five consecutive working days; and
- (c) provide an invitation to contact the carriage service provider to discuss the complaint within a specific timeframe of not less than 10 working days. [8.2.1 \(e\)](#)

**Commented [CG32]:** AMEND TO REFLECT CH 8. This is supposed to reflect 8.2.1 (e) BUT Ch 8 does not contain the requirement to contact for 5 consecutive WD. It only stipulates that CSPs must write to the consumer and provide details of the contact attempts. The proposed 5 consecutive WD rule is impractical. E.g. what happens if a CSP forgets day 4 etc.? Way too prescriptive!

**Commented [CG33]:** see above

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## Part 4—Complaints monitoring and analysis

### 18 Complaints monitoring and analysis processes, procedures and systems

A carriage service provider must establish processes, procedures and systems, for monitoring and analysing its complaints records to identify systemic issues and problems, and prevent those systemic issues and problems and related complaints from recurring. [8.3 / 8.3.1 \(a\)](#)

### 19 Requirements for complaints monitoring and analysis

A carriage service provider must:

- (a) classify and analyse complaints a minimum of once every three months, to identify, address and **attempt to** prevent frequent problems and systemic issues from recurring; [8.3.1 \(a\)\(i\)](#)
- (b) monitor complaints every 12 months to identify new issues that need specific attention and record any new issues identified in writing;
- (c) take steps to address problems or issues identified in paragraphs (a) and (b) as soon as practicable; [8.2.1 \(a\)\(ii\)](#)
- (d) record in writing any steps taken under paragraph (c); and [8.2.1 \(a\)\(ii\) and \(iii\)](#)
- (e) ensure that any significant complaints, problems or issues identified under this subsection are efficiently and effectively managed and that there are processes for senior management to be notified where appropriate; and [8.2.1 \(b\)](#)
- (f) ensure that its processes for implementing the requirements in paragraphs (a) to (e) are set out in writing, and made available to personnel responsible for monitoring and analysing complaints.

**Commented [CG34]:** AMEND. Insert attempt to. CSPs can only attempt to do so.

**Commented [CG35]:** DEVIATES. 8.2.1 (a)(ii) does not include a timeframe. The in writing requirement stems from 8.2.1 (a)(iii) I assume. Overly prescriptive.

## Part 5—Complaints record-keeping

### 20 Requirements to keep records of complaints

A carriage service provider must keep systematic records of complaints, which include:

- (a) the name and contact details of the consumer making the complaint, and their representative where applicable; [8.4.1 \(a\)\(i\)](#)
- (b) a unique reference number or such other measure that will ensure the carriage service provider can subsequently identify the complaint and its subject matter; [8.4.1 \(a\)\(ii\)](#)
- (c) a description of the nature of the complaint and the issues raised as part of the complaint; [8.4 first sentence / 8.4.1 \(a\)\(ii\)](#)
- (d) a description of the resolution proposed by the carriage service provider or the consumer;
- (e) the due date for a response; [8.4.1 \(a\)\(iv\)](#)
- (f) a description of the results of any investigation; [8.4.1 \(a\)\(v\)](#)
- (g) a description of the proposed resolution of the complaint, including any associated commitments and the date this is communicated to the consumer; [8.4.1 \(a\)\(vi\)](#)
- (h) a description of the carriage service provider's reasons for its proposed resolution; [8.4.1 \(a\)\(vii\)](#)
- (i) the consumer's response to the proposed resolution of the complaint, any reasons given by the consumer, and if they have requested the proposed resolution in writing, that this request has been made; [8.4.1 \(a\)\(viii\)](#)
- (j) the implementation of any required actions; and [8.4.1 \(a\)\(ix\)](#)
- (k) copies of any correspondence sent by or to the consumer regarding the complaint. [8.4.1 \(a\)\(xi\)](#)

**Commented [CG36]:** AMEND TO REFLECT CH 8. This is more prescriptive. Ch 8 does not require the name and contact details to be expressly stated in the complaint record which is important. This information sits in the customer accounts. This requires linking the two together for record keeping purposes which is very different from having the information at hand for complaint handling purposes. Potentially very costly to implement.

**Commented [CG37]:** Assuming this relates to 8.4.1 (a)(iii) which is the requested Resolution by the customer. But as currently written, it duplicates (g) further below.

### 21 Record retention

A carriage service provider must keep records of complaints referred to in section 20 and Part 4 for at least two years. [8.4.1 \(b\)](#)

### 22 Confidentiality

Where a carriage service provider is not subject to the requirements of the *Privacy Act 1988*, it must ensure that personal information it collects in connection with a complaint is not disclosed to a third party except as required to manage a complaint with the TIO or the ACMA, with the express consent of the consumer, or where disclosure is otherwise required or authorised by law. [8.4.1 \(c\)](#)

## Part 6—Reasonable assistance **ALL NEW**

### 23 Carriage service providers must provide reasonable assistance

Where:

- (a) a carriage service provider (the *first carriage service provider*) supplies a carriage service; and
- (b) that carriage service is involved (directly or indirectly) in the supply of another carriage service (the *retail carriage service*) by another carriage service provider (a *retail carriage service provider*) to consumers;

the first carriage service provider must provide reasonable assistance to:

- (c) the retail carriage service provider; and
- (d) any other carriage service provider who supplies a carriage service that is involved (directly or indirectly) in the supply of the retail carriage service;

in managing and resolving any complaints received by the retail carriage service provider in relation to the retail carriage service.

### 24 Carriers must provide reasonable assistance

Where:

- (a) a carrier is responsible for a network unit; and
- (b) that network unit is used by a carriage service provider (the *retail carriage service provider*) to supply a carriage service to consumers (a *retail carriage service*), or to supply a carriage service that is involved (directly or indirectly) in the supply of a retail carriage service;

the carrier must provide reasonable assistance to:

- (c) the retail carriage service provider; and
- (d) any carriage service provider who supplies a carriage service that is involved (directly or indirectly) in the supply of the retail carriage service;

in managing and resolving any complaints received by the retail carriage service provider in relation to the retail carriage service.

### 25 Responding to requests for reasonable assistance

A carriage service provider (the *first carriage service provider*) identified in paragraphs 23(a) and a carrier identified in paragraph 24(a) must:

- (a) nominate one or more personnel as a contact person responsible for the coordination of activities in relation to the provision of reasonable assistance pursuant to this Part;
- (b) notify relevant retail carriage service providers of an email address where they can contact personnel nominated as a contact person under paragraph (a), or make enquiries about, or request, reasonable assistance pursuant to this Part;
- (c) ensure that the inbox for the email address identified in paragraph (b) is monitored each working day; and
- (d) ensure that all enquiries and requests for reasonable assistance received by the nominated contact are responded to as soon as practicable, having regard to the relevant timeframes that will apply to a retail carriage service provider under Part 3.

**Commented [CG38]:** Question of what constitutes 'reasonable assistance'

We have not sought to comment on Part 6 at this stage (see formal submission) but scroll down to Part 7.

**26 Reasonable assistance to the TIO**

A carriage service provider identified in paragraph 23(a) (the *first carriage service provider*) and a carrier identified in paragraph 24(a) must provide reasonable assistance to the TIO, where the TIO requests assistance to investigate a complaint about compliance with this industry standard.

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## Part 7—Transitional

### 27 Transitional arrangements for unresolved complaints

A complaint made by a consumer to a carriage service provider prior to the commencement of this industry standard which remains unresolved at the date of the commencement of this standard is deemed to be a complaint for the purposes of the requirements in Parts 3 to 6 of this industry standard.

**Commented [CG39]:** AMEND. Ch 8 only applies to complaints received after commencement of the Code. And this is the only practicable way.

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Published by:  
**COMMUNICATIONS  
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