

**COMMUNICATIONS
ALLIANCE LTD**



**Department of Communications
Telecommunications Amendment
Regulation 2015 (No. 1)
COMMUNICATIONS ALLIANCE SUBMISSION
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TABLE OF CONTENTS

INTRODUCTION	2
SECTION 1 – SUMMARY	3
SECTION 2 – SUGGESTED CHANGES TO THE DRAFT REGULATION	4
SECTION 3 – COMMENTS ON THE PROPOSED PRINCIPLES	5
SECTION 4 – REGULATION IMPACT STATEMENT	6

INTRODUCTION

Communications Alliance welcomes the opportunity to provide this submission in response to the Department of Communications in response to the exposure draft Telecommunications Amendment Regulation 2015 (No. 1).

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>.

About Working Committee 58

Communications Alliance Working Committee 58 on *VDSL2 and Vectoring* (WC58) was formed to revise industry codes and standards to align with international developments in Very high speed Digital Subscriber Line (VDSL2) technology including ITU-T Recommendations G.993.2 and G.993.5. Aligning the appropriate codes and standards with these Recommendations is necessary to facilitate the deployment of VDSL2 broadband services.

WC58 is the most qualified group in Australia to advise on the technical aspects of delivering superfast broadband services in Australia using twisted pair cables. Its membership includes representatives from:

- (a) The largest carriers and service providers delivering both broadband and superfast broadband services to all types of end users, in both wholesale and retail markets.
- (b) Numerous designers, manufacturers and suppliers of the equipment used to provide both broadband and superfast broadband services.
- (c) Regulators of telecommunications services.

SECTION 1 – SUMMARY

Communications Alliance supports the making of a Regulation that creates a head of power for the development of an industry code to manage interference issues, including those in customer cabling, and welcomes the opportunity to comment on the exposure draft *Telecommunications Amendment Regulation 2015 (No. 1)* (the draft Regulation).

Communications Alliance believes the draft Regulation as proposed provides an appropriate head of power; however, it believes that there are a number of improvements that could be made to the draft Regulation. These include:

- The Regulation should specify Communications Alliance as the appropriate industry body to develop the code, as is currently the case in Regulation 4.1 which provides the head of power for regulation of these issues in the unconditioned local loop.
- The Regulation should be limited to the development of an industry code and not extend the head of power to the possible creation of an industry standard. This would also be consistent with Regulation 4.1.
- Clause 4.2 should be simplified to clarify the circumstances in which interference issues are to be captured by the industry code.
- The definition of 'next-generation broadband service' needs to be refined to remove the circular reference and to clarify the meaning of successor technologies.

Communications Alliance also has some concerns about aspects of the proposed principles in the explanatory note which are said to underpin the code:

- Principle 1 provides that "*in a multi dwelling unit, the owner of a cable bundle or cable bundles ... determines who can access the in-building cabling*". It seems that the application of this principle may be impacted by a range of potentially conflicting rights and obligations.
- Principle 4 provides that a "*second (or subsequent) carrier must ensure that its services do not result in any material degradation of services supplied by the first (or other pre-existing) carrier(s)*". Material degradation is not the appropriate test. Industry should be allowed to define a standard of acceptable interference in the code, and second (or subsequent) carriers must not be allowed to unacceptably interfere with the services of pre-existing carriers.
- There also appears to be a missing principle; namely a principle to the effect that an industry code may only provide protection to a system that is capable of and provisioned to provide every end user within the footprint reachable by the shared cable bundles with a superfast broadband service that meets the policy objectives.

The Regulation Impact Statement (RIS) notes some industry members have indicated a register of cable bundle owners would be useful and the Department of Communications believes a register of service providers in MDUs will be required. The industry is continuing discussions on the likely requirements for information and registers, but notes that there is potentially both a significant amount of complexity in the required information and that there may well be significant synergies and interrelationships between a register of MDU bundle owners and a register of service providers.

Communications Alliance looks forward to continued engagement with the Department of Communications and the Australian Communications and Media Authority and is, via its Working Committee 58 on VDSL and Vectoring (WC58), drafting an industry code to effectively manage interference issues, including those in customer cabling.

SECTION 2 – SUGGESTED CHANGES TO THE DRAFT REGULATION

Communications Alliance (and under its previous name as the Australian Communications Industry Forum) has been involved in the regulation of interference issues in twisted pair technologies since 1999 and is well placed to extend that involvement to the development of a code that manages interference issues in customer cabling.

WC58 was formed to revise the relevant industry codes and standards to align with international developments in Very high speed Digital Subscriber Line (VDSL2) technology. These changes will allow the deployment of VDSL2 (either vectored or unvectored) broadband services throughout Australia.

Communications Alliance believes the draft Regulation as proposed provides the necessary head of power, however it believes the draft Regulation would benefit from a number of changes to improve its simplicity and clarity.

Communications Alliance to develop the industry code

As noted in the explanatory material, Communications Alliance (and particularly its WC58) has been heavily involved in the development of thinking on these issues. The draft Regulation should specify that the industry code is to be developed by Communications Alliance. Doing so would also be consistent with Regulation 4.1 which provides the head of power for the creation of an industry code to manage interference issues in the Proposed Clause 4.2.

No need for an industry standard

Communications Alliance has already made considerable progress towards the development of an industry code and sees no need for the Regulation to provide an additional power for the Australian Communications and Media Authority to make an industry standard.

Description of interference scenarios to be regulated should be simplified

The drafting of 4.2(1)(b) and 4.2(2)(b) is difficult to understand and should be simplified.

For example, it is unclear whether the drafting related to supply of a legacy service (around "repair, replacement or maintenance...") was intended to cover use cases such as:

- (a) Connecting a different cable pair to an existing service at the same premises, served by an existing DSLAM e.g. the cable pair that was in use becomes damaged and for maintenance reasons the service needs to be connected using a spare cable pair.
- (b) Commencing a new service on existing cable using an existing DSLAM.

The draft Regulation appears to cover the first use case in (a) but might not cover the latter case in (b), since it would require a "new" jumper and therefore fail the 'only' test in "*... using only facilities that were installed and in operation at the time the system began to be operated*". Although it could be argued that the addition of a new jumper does not substantially alter the original character of the facilities and so would be covered. Such ambiguities are unhelpful and likely to cause disputes if enforcement of the code is necessary.

Communications Alliance believes it would be more effective to use drafting, similar to that used in Regulation 4.1, such as "*interference caused to a legacy service by a system providing a carriage service over a twisted pair cable*".

Definition of next-generation broadband service should be amended

The definition should be amended to remove the circular reference to "*next generation broadband service*". Communications Alliance suggests a change from:

"(e) a service that uses a successor technology to any other next generation broadband service" to

"(e) a service that uses a successor technology to the technologies in (a) to (d)".

SECTION 3 – COMMENTS ON THE PROPOSED PRINCIPLES

Communications Alliance also has some concerns about some of the proposed principles which the explanatory note outlines as underpinning the development of a code. These concerns are set out below.

Principle 1 – cable bundle owner determines access

Principle 1 provides that the owner of cable bundles (whether a carrier, body corporate, strata company, person, or other) in a multi-dwelling unit "*determines who can access the in-building cabling*", and that while in principle there is no limit to the number of carriers that can be provided with access, practical constraints may come into play.

It seems that the application of this principle may be impacted by a range of potentially conflicting rights and obligations including, for example, the rights of individual occupants in the building in respect of existing and future services to their own premises, and the rights and obligations of carriers in respect of their powers under the *Telecommunications Act 1997*.

Principle 4 – no material degradation

Principle 4 provides that a "*second (or subsequent) carrier must ensure that its services do not result in any material degradation of services supplied by the first (or other pre-existing) carrier(s)*".

Communications Alliance does not believe it is possible to draft a code that meets the requirements of this principle and enables infrastructure competition. The concept of material degradation is ambiguous and ignores the inherent and often significant degradation that can impact services in a twisted pair cable bundle whenever another service is added to the same cable bundle, including an additional service from the same provider's DSLAM. Communications Alliance believes the appropriate test would be to require services from a second (or subsequent) carrier not to "unacceptably degrade" the services supplied by the prior carriers.

That would permit the design of a code that limited the degradation of the prior systems by limiting the interference levels to what is reasonable. The approach of defining an acceptable level of interference (and the corresponding proscription of "unacceptable interference") forms the basis of the current industry code C559 for management of interference between legacy services on ULLS. Communications Alliance believes a similar approach is required to draft an industry code for next-generation system deployment.

Missing principle

There's also a presumed missing principle, namely a principle assuming that an industry code may only provide protection to a system that is capable of and provisioned to provide every end user within the footprint reachable by the shared cable bundles with a superfast broadband service that meets the policy objectives.

Without this additional principle, a Code may inadvertently protect a system incapable of serving every end user within its footprint, which would result in 'blocked service orders' for end users requesting a superfast broadband service but for which the system does not support an adequate number of ports.

SECTION 4 – REGULATION IMPACT STATEMENT

Registers of cable bundle owners and service providers

The Regulation Impact Statement (RIS) accompanying the exposure draft of the Regulation notes some industry members' indication that a register of cable bundle owners would be useful to help track ownership and make it easier for carriers to determine if in-building cabling is already in use. The RIS notes, at page 8, that although development and maintenance of such a register will create costs for industry, these would not be regulatory costs as the Government would not impose such a requirement, and that if industry considers that such a register is necessary, it would have to implement it.

The Regulatory Burden Measurement annexed to the RIS notes that a register of MDU service providers will be required for the effective operation of the code, and used by industry to determine whether a building is served by a next-generation service and the carrier operating that service. Such a register would help planning of investments and facilitate contact if a planned rollout will interfere with an existing service. The cost of such a register is noted as relatively minor to the extent that it was a simple database maintained by the industry association.

The industry is continuing discussions in respect of the likely requirements for information and registers in respect of the operation of a code but notes at this stage that there is potentially both a significant amount of complexity in the information that would likely be required (including its scope and mechanisms for publication and amendment) and also that there may well be a significant degree of synergies and interrelationships between a register of MDU bundle owners, and a register of service providers.



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