



Submission in response to
Draft Financial Hardship
Standard

**Australian
Communications and
Media Authority**

Public Version

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INTRODUCTION

1. Optus welcomes the opportunity to provide comments on the proposed new rules to improve protections for telecommunications consumers experiencing financial hardship.
2. Optus recognises that Australians are increasingly facing cost of living pressures and that anyone can face financial hardship due to unexpected events or changes of personal circumstances. We are committed to assisting our customers experiencing financial hardship. Our experience shows that 89% of Optus customers who enter into a long-term financial hardship arrangement with us, successfully exit the arrangement and continue their tenure with Optus.
3. We welcome the codification across all service providers of the hardship processes that are in place at providers like Optus. Ensuring consistency across industry will deliver benefits to many consumers. Optus supports the objectives of the draft Standard.
4. We outline below suggested improvements to either improve the clarity of the drafting or where we believe that the drafting is overly prescriptive and may work against providing consumers with the assistance they need. Our analysis shows that around 60% of the proposed clauses relate to procedural obligations rather than outcome-based obligations. We encourage the ACMA to reflect on whether such procedural focus is warranted. For example, the need for a physical application form does not reflect the manner in which consumers interact with the provider and could impose unneeded barriers to the provision of hardship assistance.
5. Importantly, none of the suggested improvements to the procedural alter the outcome of the proposed Standard. We have identified clauses that impose procedural obligations that are not needed to ensure a provider is meeting its obligations to assist customers experiencing financial hardship.
6. We acknowledge that other utility sectors offer a useful conceptual framework for assessing hardship processes, but there remain important differences.
7. Unlike utilities such as power and water, consumers have choice over which communications network they wish to use, be it either NBN, Optus, Telstra or TPG. Further, while utilities are either 'on' or 'off'; telecommunications networks provide differentiated service levels and a wide range of products to meet consumer demand. And unlike utilities such as power and water, telecommunications industry has moved to providing cost certainty for consumers in order to give them control over their spending.
8. Optus submits that it is important the differences between telecommunications and the other utility industries are reflected in the procedural obligations in the standard.

ISSUES FOR COMMENT

Objectives and requirements of the Direction

9. Optus believes the draft Standard has adequately fulfilled the objectives and requirements of the Minister's Direction in terms of the substantive obligations it places on carriage service providers (CSPs) to provide information and assistance to customers experiencing financial hardship.
10. Some of the clauses in the draft Standard are overly prescriptive, in relation to processes, creating a compliance risk even where a provider is meeting its obligations around the desired outcome of assisting customers experiencing financial hardships. Further, such prescription could impose unnecessary barriers to providers delivering hardship assistance.
11. Our analysis of the draft Standard concluded that 60% of the clauses related more to process than achieving consumer outcomes. We suggest that guidance around process or how to achieve compliance should be included in the explanatory statement rather than be incorporated into the Standard as clauses.
12. This table summarises where we believe drafting could be less prescriptive and more outcomes focussed:

Clause/Definition	Suggested change
Application form	<p>This creates an obligation to have a form which does not substantially impact a provider's ability to assist a customer.</p> <p>Optus currently has processes in place that enable customers to easily apply for financial hardship assistance, by contacting us via phone or email, however, we do not currently require customers to fill out a physical form. The requirement to utilise a physical application form is a backwards step and would create an unneeded barrier to providing assistance to customers.</p> <p>Our current application process creates a record of the customer's application without the need for an application form.</p> <p>We suggest an amendment to delete the need for providers to create a form as this creates an extra step and introduces an unnecessary barrier to customers seeking assistance.</p>
8	<p>This level of detail is better included in guidance in the explanatory statement as it is overly prescriptive, for example, requiring a particular font size.</p> <p>The obligation should be outcomes focussed and simply require providers to have a policy in place that is readily available and accessible to customers.</p>
9 (c) (i)	<p>This requirement will not impact consumer outcomes. It is not legally accurate for telecommunications to be described as an essential service and we are concerned that this clause could require providers to make</p>

	misleading statements.
15 (1)	Remove obligations and references to needing to provide an application form and replace with obligation to inform customer about how they can apply for assistance.
15 (2)	<p>This clause could be simplified to require that where a customer indicates they are experiencing financial hardship a provider must provide advice and information.</p> <p>We suggest that 15 (2) a- e could be guidance in the explanatory statement rather than clauses in the Standard.</p>
15(3)	<p>Remove obligation to have or supply an application form. An obligation to make the policy available on request is sufficient.</p> <p>Where the consumer advises they wish to apply for assistance the obligation should be to facilitate that process, rather than to supply a form (noting that the requirement to have a form inserts an extra step in current processes and creates an unnecessary barrier to assistance for the consumer).</p>
15 (5)	<p>This should be a guidance note in the explanatory statement rather than a clause.</p> <p>Optus sometimes overrides a customer's preference to ensure they receive an important notification, noting that a customer's preferred method may also not be available, for example, if a service has been disconnected due to non-payment, prior to any application for financial hardship assistance.</p>

Adequate protection for customer with payment difficulties

13. Optus submits that the draft Standard provides adequate protection for customers experiencing difficulties paying for their services. Moreover, we believe the draft Standard, substantively achieves the same outcomes that we deliver to customers in terms of financial hardship assistance today. We acknowledge that it is beneficial for existing good practice that the larger providers are performing, to be made a requirement for all providers, including smaller providers.
14. The table below summarises our comments in relation to the substantive requirements of the draft Standard:

Clause/Definition	Suggested change
consumer	<p>Optus supports the provision of financial hardship assistance to residential customers and genuine small businesses, such as sole traders.</p> <p>We do not support the extension of financial hardship assistance to businesses and not-for-profit organisations as proposed in the draft Standard.</p> <p>To ensure the scope and application of the Standard is appropriately</p>

	<p>limited we suggest an amendment as follows:</p> <p>(c) (iii) to include an exclusion for businesses that are account managed or integrated service customers as per the Customer Authentication Determination</p> <p>Larger businesses and enterprises must be excluded from the scope and application of the Standard. Businesses already have avenues and remedies available (for example, insolvency) when they are facing financial difficulty and it is not appropriate for telecommunications providers to have an obligation to provide financial assistance to a business that is not a genuinely small business or sole trader.</p> <p>A spend of \$100,000 is also extremely high for telecommunications services and is not an appropriate or reasonable threshold. We suggest \$40,000 would be more appropriate.</p> <p>This proposed definition of consumer is inconsistent with the definition of financial hardship which describes personal circumstances that can impact on a customer's ability to discharge their obligations. We submit that the personal circumstances outlined in the definition of financial hardship would never apply to business or non-profit organisation customers.</p> <p>We also note that the current drafting does not include any limit on the inclusion of not-for profit organisations. Not-for-profit organisations can be large, for example, many large industry associations are not-for-profit. The Bill and Melinda Gates Foundation is not-for-profit and as it is drafted, would fall under the scope of the Standard. While we do not expect such an organisation would apply for financial hardship assistance, we similarly do not understand why such organisations are included in the scope of the Standard.</p> <p>We strongly submit that the drafted definition of consumer goes beyond the intention of the Minister's Direction and that the Standard should only apply to residential consumers or genuinely small businesses, consistent with the definition of financial hardship.</p>
15	<p>Suggest that 15 (2) (a) and 15 (2) (c) are combined so that a customer indicates hardship where they mention both having an overdue bill and needing help to pay that bill. There are many circumstances where a customer will have an overdue bill and mention it to us but will not be in need of hardship assistance.</p>
16 (4) (a) and 15 (1) (d)	<p>We are unsure why there is a requirement to provide a 'contact name'? Does this mean we would need to provide a specific staff member's name?</p> <p>Suggest it is more appropriate and useful to provide a general contact point, so that customers have continuity, for example, if a staff member is unavailable or leaves. While we strongly prefer to provide end to end case management via one representative, this is not always possible, especially in relation to long-term arrangements.</p>

18 (1) (a)	We note that while there are five options that providers can make available, two of these are mandatory under the current drafting and that option (e) is effectively a combination of (d) and (b). We also suggest that another option could be (f) to provide a credit to the customer's account. Optus' experience is that many customers experience financial hardship that is short-term in nature and the provision of credits for a short period of even on a one-off basis is sufficient assistance to keep the customer connected for the longer term. We suggest that this option should be included as one of the 'options to help with payments'.
18 (1) (b)	Optus notes that spend controls are not generally used in market and threshold limits are a legacy concept, so options (a) and (e) to keep customers connected are effectively redundant for many customers.
35	Please see our comment under 11 below in relation to transitional arrangements.

Commencement

15. Optus understands that the Minister's Direction states that the Standard must take effect from 29 March 2024.
16. Given the very short time frame this allows for CSPs to implement the necessary IT system and operational process changes, we submit that CSPs should be required to inform the ACMA of their compliance status at 29 March 2023 and if there are any outstanding areas in terms of compliance at 29 March 2023, the ACMA will be informed and able to consider if regulatory forbearance should apply for a period to allow for implementation.
17. We further suggest, that given the short timeframes, the ACMA should provide regulatory forbearance where a CSP is making best efforts to comply. We point out that December and January are the busiest times for both network traffic and customer service activations and that CSPs typically have embargoes on IT and system changes over this period to minimise disruption to consumers.
18. This approach is reasonable given that the vast majority of changes reflect procedural changes rather than changes that impact the ability of CSPs to offer financial hardship.

Contact requirements

19. Optus agrees with the contact requirements as drafted, noting our comments in relation to 15 (1) (d) and 16 (4) (a) regarding the need to provide a staff member's name as a contact point.
20. Optus currently provides financial hardship assistance to customers by phone.
21. We are mindful both of customer preferences as well as safety when it comes to contact.
22. We acknowledge there are advantages to phone contact but we note that sometimes customers experiencing difficulties paying or who have other vulnerabilities may prefer to communicate by other methods, such as email or messaging. And it can be challenging to reach some customers by phone, even where this is their preferred contact method.

Transitional arrangements

23. Clause 35 sets out an obligation for providers to contact all customers with an existing financial hardship arrangement in place with an offer to replace their existing arrangement with one that is consistent with the new policy that a provider would need to implement in compliance with the Standard.
24. We submit, that for Optus customers, this will be unnecessary as the customer's existing arrangement will be compliant with the new policy. Where this is the case, contacting the customer to offer them a new arrangement that is the same as their existing arrangement will only cause confusion.
25. We submit that Clause 35 be amended so that a provider does not need to contact customers with the offer of a new arrangement where existing customer arrangements are consistent with the provider's new policy.
26. Optus has no objections or comments on the remaining transitional arrangements.