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The Manager
National Interests Section
Australian Communications and Media Authority

By submission: <https://www.acma.gov.au/consultations/2024-09/proposed-telecommunications-customer-communications-outages-industry-standard-2024>

RE: Draft Telecommunications (Customer Communications for Outages) Industry Standard 2024

The Internet Association of Australia (**IAA**) thanks the Australian Communications and Media Authority (**ACMA**) for the opportunity to respond to the consultation on the draft Telecommunications (Customer Communications for Outages) Industry Standard 2024 (**Standard**).

IAA is a member-based association representing Australia's Internet community. Our membership is largely comprised of small to medium sized internet service providers (**ISPs**) who also provide other classical telecommunications services and would therefore be subject to the Standard as carriage service providers. This response is written primarily in representation of these members, as well as for the broader public good of the internet and telecommunications sector.

Overall, we support the development of the Standard, however with reservations. Given recent experiences in Australia, we understand the concerns of government and other stakeholders with regard to what communications are provided to end users in the case of significant and major outages affecting telecommunications services. To that end, we consider that this type of system would best be developed as a Code, rather than a Standard, so that the definitions and methods could be fully debated, the systems fully tested, and all parties with deep knowledge of the telecommunications architectures and service models could be brought to the table to determine the optimal solution.

We note that it is already in the best interest of carriers and carriage service providers to actively communicate with their customers in situations of network failure. Indeed, there are already many external systems that publish the network status of commercial providers¹. Given the incredible ease at which customers can switch providers, ensuring customer satisfaction is a core objective of telecommunications providers, of which communication is a key component that most providers

¹ Examples include: DownDetector <https://downdetector.com.au/> Down for Everyone or Just Me <https://downforeveryoneorjustme.com/> Thousand Eyes <https://www.thousandeyes.com/outages/> Pingdom <https://www.pingdom.com/>

are mindful of even without the Standard. As such, we recommend that the Standard is not too prescriptive, and as much flexibility be provided wherever possible.

Moreover, we firmly believe that effective and practicable regulation should not be developed reactively, and should undergo meaningful and thorough consultation to ensure its efficacy. To that end, we are concerned that the Direction by the Minister does not provide sufficient time for the ACMA to develop the Standard, and for industry to implement and develop systems and procedures in order to ensure its compliance with the Standard. Indeed, were this to undergo a Code development process a more thorough and potentially effective system that is designed to be fit for purpose could be created.

In particular, we urge the ACMA to consider the disproportionate regulatory burdens placed on smaller entities, such as those that IAA represent. We therefore offer our below response to ensure the Standard is more practicable for industry to understand and follow.

OUR RESPONSE

Is the definition of a major outage appropriate? If not, why not?

In general, we appreciate the ACMA's intent to create a clear definition that can be easily applied by entities during what is already a stressful period, and that the definition only apply to significant market players. To ensure further clarity of the definition, we recommend that the definition for 'major outages' specifies "500,000 or more of the carrier's or carriage service provider's **active** services in operation".

Is it appropriate to exempt planned outages and outages caused by natural disasters from the definitions?

Yes, we consider it appropriate to exempt planned outages and outages caused by natural disasters. These are not matters specified in the Direction, and would go beyond the objectives and requirements set out thereof.

In addition, with regard to natural disasters, we note that there is currently work underway by the government in collaboration with industry and other stakeholders to develop a robust framework for crisis management. We therefore do not think it would be appropriate to deal with entities' obligations during a natural disaster under the context of this Standard.

Should the standard deal with matters differently for different classes of end-users of carriage services supplied by carriers and carriage service providers?

We do not recommend the Standard to set out different requirements for different classes of end-users, however greater clarity in the meaning of the term 'end-user' is needed. While we appreciate the objectives and circumstances that has resulted in the Minister's Direction, we are already concerned about the regulatory burden the Standard will pose on entities, particularly those smaller telecommunications providers. Prescribing different sets of rules for different classes of end-users will further complicate the Standard and make it difficult to understand and follow.

That said, it is arguable that for extremely small players, or services only delivered to an 'immediate circle' of recipients, such as a small group of companies, or family and friends, that these types of end users be carved out from the Standard. It is our view that these types of services are delivered in very restricted circumstances and those in receipt of such services understand the potential for,

and the impact of, interruptions to service, or are closed user groups with entirely different requirements.

Without a clear definition of ‘end-user’, however, it is difficult to discern the potential impact in not having the ability to set different types of responses for different classes of end-users. Thus, there may be further changes needed to the standard.

For carriers and carriage service providers, what are the likely costs and benefits of implementation for your organisation? (Please provide specific cost estimates in your response.) Are there alternative ways to achieve the objective of the direction that would be consistent with its terms and provide for lesser costs or greater benefits?

Given our broad membership consisting of telecommunications providers of various types and sizes, it is difficult to provide specific cost estimates. However, we do reiterate that regulation always places a disproportionate burden on smaller entities due to their lack of resources. For example, many smaller entities do not have an in-house legal or regulatory personnel to unpack legislation and will need to engage legal practitioners to ensure their compliance with the Standard, resulting in additional legal fees on top of other costs associated with implementing changes to their systems and procedures as well as conducting staff training.

We therefore respectfully request the ACMA to develop regulatory guidance material and standard templates that entities can adopt and follow to assist with their compliance with the Standard.

It is also our view that best practice Service Providers already have automated systems to publish real-time network status reports to public websites, reachable when their own networks and services are experiencing downtime.

We are seeking views, and the reasons for them, on the earliest practical date for the standard for major outages to commence in full. This must be no later than 31 December 2024.

As aforementioned, although we understand the need for the Standard, we are highly concerned about the short period that has been granted to ACMA to draft the Standard, and then for entities to implement changes to be compliant with new regulations. Again, we respectfully request the ACMA to publish educative material and engage closely with entities to raise awareness and ensure a thorough understanding of the Standard.

In addition, with regard to proposed section 20 of the Standard which mandates that entities must also prepare and publish its procedures for communications following a major outage, we request that the Standard allows entities a longer time before this provision commences. We note that this is not a requirement that was provided for by the Minister’s Direction, and therefore should not be required by 31 December. We appreciate that this commencement date was likely set by the ACMA to align with the rest of the provisions relating to major outages. However, noting as above that many entities will need to engage lawyers with respect to their compliance obligations, and in particular, in preparing these written documents, we do not think 31 December will be enough time. We note the end-of-year period is already a very busy period, and entities may also not be able to have their lawyers prepare such documentation for them in time. We therefore request that the Standard be amended to stipulate section 20 commences from the 1 March 2025, and that any enforcement be advisory, rather than punitive, in the first 12 months of operation.

We are seeking feedback on whether there are:

- **Additional matters aligned to the objectives which should be included in the standard?**
- **Matters included in the draft standard for which alternative arrangements should be considered?**

Section 12

For clarity, paragraph (12)(2)(b) should state “all **relevant** information”.

Section 15

Again noting the disproportionate effects of regulation on smaller entities, we suggest that for carriage service providers whose supply of carriage services to end-users is affected by an outage on another carrier’s or carriage service provider’s network, those carriage service providers should only be required to direct end-users to the updates provided by the other carrier or carriage service provider whose network is experiencing the outage. Under these circumstances, the carriage service provider whose supply of services is affected by the other carrier or carriage service provider should not be subject to section 15. Instead, as part of section 12, there should be a provision that sets out the carriage service provider’s obligations to direct its end-users to the communication channels of the other carrier or carriage service provider for ongoing updates on the outage.

Section 17

We do not agree subsection 17(3) should be limited to information that is being shared with other carriers, carriage service providers and relevant stakeholders. We believe that this exemption should be a standalone provision that relates to all information shared at any stage of the outage, including to the public, or to end-users. There will undoubtedly be occasions where it is not possible or appropriate to share information about the likely cause of the outage to the public or to end-users due to its consequences on the security of the telecommunications network or national security. Thus the provision set out in subsection 17(3) should apply to sections 10-13, and 15-17.

Section 18

We believe “urgent assistance” requires defining for the sake of clarity. Again, we express our concern regarding the regulatory burdens placed on smaller entities who do not have the resources to unpack legislative material and interpret provisions. Thus we would appreciate provisions to be as clear as possible so as not to place entities at risk of being penalised despite their compliance efforts.

CONCLUSION

Once again, IAA appreciates the opportunity to contribute to the draft *Telecommunications (Customer Communications for Outages) Industry Standard 2024*. We reiterate our commitment to work with the ACMA, industry and other stakeholders to ensure a practicable legislative framework that will ensure appropriate communications are made in times of significant network outages.

ABOUT THE INTERNET ASSOCIATION OF AUSTRALIA

The Internet Association of Australia (IAA) is a member-based association representing the Internet community. Founded in 1995, as the Western Australian Internet Association (WAIA), the Association changed its name in early 2016 to better reflect our national membership and growth.

Our members comprise industry professionals, corporations, and affiliate organisations. IAA provides a range of services and resources for members and supports the development of the Internet industry both within Australia and internationally. Providing technical services as well as social and professional development events, IAA aims to provide services and resources that our members need.

IX-Australia is a service provided by the Internet Association of Australia to Corporate and Affiliate members. It is the longest running carrier neutral Internet Exchange in Australia. Spanning six states and territories, IAA operates over 30 points of presence and operates the New Zealand Internet Exchange on behalf of NZIX Inc in New Zealand.

IAA is also a licenced telecommunications carrier, and operates on a not-for-profit basis.

Yours faithfully,

Narelle Clark
Chief Executive Officer
Internet Association of Australia