

18 October 2024

The Manager
National Interests Section

Australian Communications and Media Authority
Level 32 Melbourne Central Tower
360 Elizabeth Street
Melbourne VIC 3000

Dear Manager,

Submission to Consultation Paper – Proposal to make the Telecommunications (Customer Communications for Outages) Industry Standard 2024

Thank you for the opportunity for Vocus Group Limited (**Vocus**) to submit our comments on the draft Telecommunications (Customer Communications for Outages) Industry Standard 2024 (**Standard**), being the subject of the ACMA consultation paper, "Proposal to make the Telecommunications (Customer Communications for Outages) Industry Standard 2024".

BACKGROUND

As a telecommunications business, Vocus does not own and operate any mobile network. From a mobile services standpoint, we are a mobile virtual network operator (**MVNO**) utilising Optus' mobile network to resell mobile services to our customers.

From a broadband services standpoint, whilst we own and operate our own fibre network and are therefore a fibre network operator (**FNO**), we also utilise the NBN broadband network to resell broadband services to our wholesale customers (in our capacity as a B2B carrier) and to our retail customers (in our capacity as a B2C carriage service provider/retail service provider (**RSP**)).

As such, from a carriage service provider (MVNO/RSP)'s perspective, there are many technical limitations upon our abilities to comply with the proposed obligations, as they currently stand.

VOCUS' RESPONSE

We note the questions raised in the ACMA's consultation paper, and we respond with our general comments, requests for further clarity, as well as feedback to specific questions posed by the ACMA, as follows:

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1. Objectives and requirements of the direction

Question 1: Does the draft standard fulfil the objectives and content requirements of the direction? If not, please explain why and describe any alternative and/or additional approaches that could be used to meet these.

Carriage service provider's compliance under the proposed requirements

1.1 Vocus believes that the objectives of the direction are sound. However, from a carriage service provider's perspective, Vocus does not believe that the current drafting of the Standard would fulfil the objectives and content requirements of the direction. If the objectives of the direction and the Standard are to provide end customers with:

- (a) timely and up-to-date information; and
- (b) available information on the status, scale, impact, cause, and estimated timing for rectification of an outage,

then such information should rightly come directly from a mobile network operator (**MNO**) and FNO, given that such information of this nature is largely determined by the MNO/FNO who own and operate their networks and infrastructure. As such, a carriage service provider (MVNO/RSP) such as Vocus would not have the visibility or capability to provide its end customers with timely, up-to-date and relevant information, as required under the Standard and direction.

1.2 More importantly, between a carrier and a carriage service provider, there are considerable differences and varying levels of obligations, resourcing, relationships and end-customer impacts. Therefore, taking a general and broad-handed approach by imposing the same set of requirements upon both a carrier and carriage service provider, in fact, neglects to give due consideration to the differences in the nature of the relationship that a carrier would have with their customers versus the relationship that a carriage service provider would have with theirs. This could therefore result in a failure to achieve the intended objectives and outcomes of the direction.

In this regard, Vocus submits that having separate standards with separate sets of requirements upon carriers and carriage service providers would be more suitable as this approach would more appropriately address the varying levels of obligations, resourcing, relationships, technical challenges and end-user impacts, which are particular to carriers and carriage service providers; thereby better fulfilling the objectives and achieving better compliance outcomes.

Carrier's compliance under the proposed requirements

- 1.3 In addition, as an upstream B2B carrier to other carriers and carriage service providers, Vocus believes that there may be issues with the application of the current drafting of the Standard to upstream suppliers. These issues are set out below.

Section 11: Notification requirements

- 1.4 Section 11 requires a carrier or carriage service provider who “reasonably suspects that there is, or will be, an outage” to notify other carriers or carriage service providers “whose end-users may be affected”. This requirement reveals several issues, namely:
- (a) Under the current drafting, carriage service providers are required to notify their customers (i.e. other carriage service providers) when they **reasonably suspect** that there is (or will be) an outage, based on the **limited** information that would be available to carriage service providers as they are reliant upon information provided to it by the MNO/FNO. Vocus believes that there would not only be a high risk of over-reporting or under-reporting, but also a reporting of potentially inaccurate and incomplete information to end customers because of a lack of accurate and up-to-date information. This could have the potential for unintended consequences and may cause more harm than good; ultimately failing to achieve what the direction and Standard have set out to achieve; and
 - (b) Vocus, as an upstream wholesaler/carrier, would know which of their B2B customers (other carriage service providers) are affected. However, a wholesaler/carrier would not have any visibility of end-customer information as the carriage service provider would be responsible for their end customers given the contractual relationship is between the carriage service provider and the end customer.

Section 13: Public communication requirements

- 1.5 Section 13 requires a carrier to communicate with the public as soon as it reasonably suspects that there is, or will be, an outage. If a wholesaler is a carrier, and the outage impacts services provided by that carrier (though the outage is not as a result of a failure on that particular carrier's network), it is unclear whether that carrier is caught by this section. Given these considerations, Vocus submits that the carrier which owns the network responsible for the outage should be the party rightly responsible for communicating with the public.
- 1.6 Under this section, there are also several issues with the current drafting, namely:

- (a) The Standard does not account for the varying levels of visibility which different carriage service providers have into end-customer impacts;
- (b) It may lead to inconsistent application of the Standard across the telecommunications industry;
- (c) It could result in an over-reporting or under-reporting of outages, depending on how carriers and carriage service providers interpret their responsibilities; and
- (d) It may place undue burden upon upstream carriage service providers to make their own determinations without complete and accurate information which is necessary for end customers to know in order to avoid causing further significant distress and disruption to emergency services, government services, businesses and vulnerable people. The Standard would fail to achieve what it has set out to achieve should such a situation eventuate.

Section 17: Information-sharing requirements

- 1.7 Section 17 requires a carrier or carriage service provider, as soon as it “**reasonably suspects** that there is, or will be, an outage”, to share certain specified information with “other carriers or carriage service providers who **have not been notified**”. This presents several issues:
- (a) There appears to be an assumption drafted into the current drafting of the Standard that one carrier/carriage service provider would know whether another carrier/carriage service provider has or has not been notified of an outage. Given carriers and carriage service providers do not operate in a centralised communications ecosystem where all relevant parties have visibility of who has or has not been notified, and whose end customers would be impacted by an outage, this assumption is an unfeasible one. The requirements that follow this assumption are, therefore, problematic to comply with; and
 - (b) Vocus also believes that **reasonable suspicion** is a very low threshold required before a carriage service provider, with limited information available to it to begin with, is required to act in order to meet its compliance obligations under the Standard. As stated under point 1.4(a), this could very well result in an over-reporting of inaccurate or incomplete information and, therefore, a failure to meet the objectives.

2. Definition of a major outage and a significant local outage

Question 2: Is the definition of a major outage appropriate? If not, why not?

Question 3: Does the definition of ‘significant local outage’ meet the objective of the direction that it should capture outages that are lesser in scale than major outages, but have a significant impact on local communities?

2.1 In response to questions 2 and 3, both the definitions of “major outage” and “significant local outage” are not appropriate for the below reasons:

Definitions – Lack of visibility of end-customer relationship and information

2.2 The definitions of "major outage" and "significant local outage" under section 5 are based on two main thresholds which are to be met:

(a) **Affected services threshold** – The specified number of affected services on a carrier or carriage service provider’s network (under both definitions), or all services provided by a carriage service provider in a State or Territory being affected (under the “major outage” definition); and

(b) **Duration threshold** – The actual or estimated duration of an outage.

2.3 The ACMA’s consultation paper further states its objective in defining a major outage is:

*[I]t should be clear and **easy to apply in a short timeframe by carriers and carriage service providers** who are also trying to diagnose and resolve the service outage. The explanatory statement advises the ACMA to ensure that the definition is objective, quantifiable and measurable.*

2.4 Whilst the intention is to ensure that carriers and carriage service providers can easily and unequivocally apply the definitions using the specified thresholds above so that appropriate management and customer communication processes can be initiated in a timely manner, Vocus submits that the use of such thresholds in both the definitions would not be appropriate and, indeed, would not serve to achieve this intention. The reason for this is because, at the initial stages of diagnosis of an outage, the duration and the number of affected services of an outage cannot be pre-determined until after initial troubleshooting has begun and a plan for rectification has been identified. This process of diagnosis, troubleshooting, rectification planning and outage rectification can take anywhere from 30 minutes to a number of days. For this reason, Vocus

recommends that the affected services threshold and the duration threshold should be removed from both the definitions.

- 2.5 In addition, from an upstream carrier/wholesaler's perspective, Vocus would not have visibility of this end-customer information and relationship because it would be our B2B customer (another carriage service provider) who would have the contractual relationship with their end customers and, therefore, the customer information. Without this visibility, it would be a major issue for an upstream carrier/wholesaler to determine whether an outage meets the affected services thresholds under the definitions.
- 2.6 Therefore, instead of using the above thresholds, an alternative approach that Vocus would like to put forward for the ACMA's consideration is to leverage, streamline, and unify existing crisis management practices which are already in place and familiar to the major infrastructure providers within the industry in order to effectively and efficiently achieve the objectives of the direction by 31 December 2024.

Application of the definitions

- 2.7 In response to the definition of "significant local outage" under question 3, the reference to "local" in the naming convention of the definition implies that the definition is restricted to a particular geographical area.

Vocus notes that the definition of "significant local outage" does not make any reference, and indeed does not restrict its application, to particular geographical areas. We also note the ACMA's expressed intention in its consultation paper that a significant local outage "has been defined without reference to a distinct local geographic area".

However, in order to be consistent with this expressed intention, and to avoid any ambiguities in the mind of the reader, Vocus submits that the ACMA should consider removing any references to "local" in the naming convention of the definition to avoid any potential for ambiguities in the application of this definition.

- 2.8 With regard to the affected services threshold under the "major outage" definition, Vocus seeks further clarity from the ACMA on the below:
- (a) Given the interconnectedness of services between carriers (MNOs and FNOs) and carriage service providers (MVNOs and RSPs), how should the number of affected services be determined in practice?

For example, if Optus has over 500k affected services in Western Australia, and therefore

deems an outage to be a major outage; would Vocus likewise have to deem the outage a major outage and implement major outage management processes even though not all of the same services supplied by Vocus (in its capacity as a MVNO) in Western Australia have been affected?

- (b) Is the number of affected services determined by reference to broadband network services, or mobile network services, or both?

Wider considerations of the definitions

2.9 With regard to the definitions of “major outage” and “significant local outage”, the only material differences between the two definitions lie in:

- (a) The number of affected carrier/carriage service providers’ services in operation; and
- (b) The actual or expected duration of an outage.

2.10 In practical terms, there would be little material difference in the way a major outage and a significant local outage would be managed by a carrier/carriage service provider. Under the current drafting of the Standard, whether an outage is a major one or a significant local one, a carrier or carriage service provider would still be required to:

- (a) Provide 2-hourly updates until the outage is rectified;
- (b) Provide near to real-time customer assistance to customers requiring urgent assistance during an outage; and
- (c) Notify end customers and the public as soon as services are restored or rectified.

2.11 However, when we consider the fact that many carriage service providers like Vocus do not have the size, scale, technical capabilities and resourcing that the likes of Telstra, Optus and NBN would have within the telecommunications industry, the requirements for smaller providers to provide 2-hourly updates and near to real-time customer assistance during an outage would place an undue burden upon smaller providers to ensure that they are adequately staffed 24/7 in order to meet their compliance obligations, as they currently stand. This raises several considerations:

- (a) From a financial perspective, the need to be adequately staffed 24/7 would necessarily drive the increase in costs to business and, in turn, to the end customer; and

- (b) From a regulatory risk versus reward perspective, smaller providers who rely upon their MNOs and FNOs to provide them with the necessary information about an outage would not be achieving any real purpose or benefit by having 24/7 capabilities to simply relay the same information from their MNOs and FNOs every 2 hours.

2.12 Further, if the intention is to create a telecommunications ecosystem whereby all relevant parties are interconnected with the necessary information of an outage, then the requirement to have one or more RSPs/MVNOs updating each other will ultimately lead to a decentralisation of communication, causing smaller carriage service providers/RSPs/MVNOs to dilute and confuse communication within the industry and, importantly, with end customers. The net effect of this would be to cause further panic, confusion and distress to end customers, thereby negating the benefits that the objectives anticipate and seek to achieve for end customers.

2.13 With regard to the management of major and significant local outages, an alternative approach to be applied to RSPs and MVNOs instead may be to require:

- (a) Major outages – RSPs/MVNOs to provide 2-hourly updates, and MNOs/FNOs to provide the 24/7 near to live customer assistance; and
- (b) Significant local outages – RSPs/MVNOs to provide 4 to 6-hourly updates, and MNOs/FNOs to provide the 24/7 near to live customer assistance.

2.14 This would avoid the undue burden upon RSPs/MVNOs and the increase in costs to businesses and end customers, however would still achieve the same objectives whilst addressing the customer issues, particularly around major outages.

2.15 With regard to the references to any “unplanned ...partial unavailability” of a telecommunications network in the definitions of the draft Standard, it is unclear what practical scenarios the ACMA intends to capture. For example:

- (a) A customer may be able to connect to the internet, however at slower speeds than their usual service speeds. A “service degradation” scenario like this would technically be captured by the plain and ordinary meaning of the words “partial unavailability” of a telecommunications network and, therefore, the definitions under the Standard; and
- (b) A customer’s service is up for 30 minutes, down for 2 minutes, and then up for 1 hour. This “intermittent service availability” scenario would likewise be captured.

Vocus, therefore, seeks further clarity from the ACMA on this point in relation to what practical scenarios the “partial unavailability” of a telecommunications network is intended to capture under the Standard.

3. Exemptions for certain carriers and carriage service providers

Question 5: Are there certain classes of carrier and carriage service provider that should be exempt from the requirements of the standard? Please explain your answer and give reasons for your position.

3.1 Yes, there are certain classes of carriers and carriage service providers who should be exempt from the requirements of the Standard. The reasons for Vocus’ position are set out below:

- (a) Under section 17, carriers and carriage services providers are expected to share certain specified information with other carriers or carriage service providers who have not been notified of an outage. However, Vocus reiterates our concerns surrounding the decentralisation of communication and the adverse impact this would likely have upon end customers when communication is expected to come from carriage service providers who do not own and operate a network; and
- (b) Under section 18, a carriage service provider is required to provide end customers requiring “urgent assistance” with near to live customer assistance during an outage. As it stands, there is currently little that resellers/carriage service providers can provide in terms of urgent assistance outside of hours (9am – 9pm AEST Mondays to Fridays, and 9am – 6pm AEST on weekends). Within the industry, there are not many resellers/carriage service providers who would have operation centres, on-call staff, and the automation required to meet this obligation.

In addition, carriage service providers with greater than 50K customers and less than 500K customers on any given network will have issues meeting the 24/7 customer assistance obligation between when the Standard is to be determined by the ACMA on 14 November 2024 and when the Standard is to commence on 31 December 2024; noting that the requirements are to be imposed during an industry embargo period. During this industry-wide embargo period, all telecommunications carriers and carriage service providers will operate on skeletal resourcing, therefore only limited and critical functions and activities will continue.

3.2 Further, on the requirement of “urgent assistance”, Vocus seeks further guidance from the ACMA on what is expected of carriers and carriage service providers in practical terms. The main issue presented here is that few, if not any, carriage service providers within the industry would have the 24/7 capability to comply with this requirement. In addition, under this current drafting, there

is no defined scope or specific set of requirements outlined for how a carriage service provider must support end customers in need of urgent assistance.

- 3.3 Currently, there are existing rules for “priority assistance” as defined by industry, which sets out expectations upon providers on how they are to support customers who are in vulnerable circumstances at point of sale. Should similar rules be created for “urgent assistance”, it would be beneficial for the industry to have such rules aligned with the existing rules of “priority assistance” in order to comply with this requirement by 31 December 2024. Vocus, therefore, seeks further clarity from the ACMA on the above.
- 3.4 In consideration of the issues outlined in point 3.1, Vocus reiterates our position under point 1.2 and recommends that the ACMA consider having separate standards for carriers and carriage service providers to govern how they are to separately manage major and significant local outages, on the basis of the differing and varying levels of responsibilities and contractual relationships between a carrier and its B2B customer, and a carriage service provider and its B2C customer. Carriers should rightly be responsible for providing communications and updates to their B2B customers who are directly impacted by the outage. However, where their customers are wholesalers reselling a service to B2C end customers, then the responsibility should also be on wholesalers/carriers to provide communications and updates to ensure that their end customers are notified.
- 3.5 This goes to follow that there should also be different expectations in communication frequencies and methods for carriers versus carriage service providers. If carriage service providers are required to provide updates to end customers every 2 hours, and are reliant upon information provided by carriers about an outage; then it is necessary that carriers should provide updates to carriage service providers every hour in order for carriage service providers to be able to meet their compliance obligations under the draft Standard.

4. Different classes of customers

Question 6: Should the standard deal with matters differently for different classes of end-users of carriage services supplied by carriers and carriage service providers?

- 4.1 Yes, Vocus submits that the Standard should deal with matters differently for different classes of end-users of carriage services supplied by carriers and carriage service providers. This is because different end customers of services may have different expectations, access to different communication methods as well as different management approaches to the impact of outages.
- 4.2 For carrier (B2B) customers such as banks, hospital, mines and other businesses, they may require more frequent communications via formal communication channels (e.g. email, public-facing websites, app or portal notifications) compared to carriage service provider (B2C) end customers, who may be small businesses and individuals at home who may prefer and expect communication via SMS and email.
- 4.3 In addition, the impact and responsibilities of carrier (B2B) customers versus carriage service provider (B2C) customers may also be different. For example, banks, hospitals and mines etc. may have different requirements to support their end customers affected by an outage.

Should you have any questions or issues arising from this response, please do not hesitate to contact the author at [REDACTED].

Yours sincerely,

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