



Our ref: IRD23007314

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Nerida O'Loughlin
Australian Communications and Media Authority
Level 5
The Bay Centre
65 Pirrama Road
Pyrmont NSW 2009

Dear Nerida

Re: The Proposed Telecommunications (Customer Communications for Outages) Industry Standard 2024

The Australian Competition and Consumer Commission (ACCC) welcomes the opportunity to comment on the proposed *Telecommunications (Customer Communications for Outages) Industry Standard 2024* (the Standard). As highlighted by the Bean Review, communication failures during large scale outages can severely impact end users and decrease consumer trust in their telecommunications providers. We consider there is a need to provide clear regulatory guidance on communications requirements in these situations and support the determination of an industry standard to address these issues.

In general, the proposed Standard captures the various forms of communication required for end users, the public and other carriers/carriage service providers (CSPs) to adequately respond to an outage. The ACCC supports the range of terms included in the proposed Standard, including the kinds of communication required and their timings, and the update and notification requirements regarding any changes to the situation.

Nonetheless, we consider the requirements in the proposed standard can be strengthened in several aspects and recommend that the ACMA consider the following suggested changes. In the ACCC's view, they would increase the Standard's effectiveness in complying with the Minister's Direction of 21 August 2024 (the Direction), by ensuring that the valuable protections it contains will apply to all end users affected by significant local or major outages.

Significant local or major outages caused by natural disasters should be included

The ACMA's current intention is that the requirements in the proposed Standard do not apply where the sole or predominant cause of an outage is a natural disaster.

The ACCC recommends that the ACMA consider extending the requirements on CSPs to communicate with end users, other CSPs/carriers and the public to capture outages caused by natural disasters.

While the Bean review examined the Optus outage in November 2023, which was caused by a technical issue rather than a natural disaster, the ACCC considers that the need for clear communications requirements is the same regardless of the cause of the outage.

Natural disasters are a time of especially intense end-user need for clear and timely communications. Consumers and businesses alike need to access telecommunications for a multitude of purposes, and need to have the maximum information possible on how their telecommunications will be impacted, when they are likely to be rectified, and how to obtain assistance or information during the outage. Communicating this information to other CSPs and to the public is equally important; an unaffected consumer attempting to contact an affected relative during a natural disaster would particularly benefit from public communication about the outage, for example. It is equally important that emergency service providers are updated, as illustrated in the recommendation to 'require carriers to provide regular information on the status of outages and areas affected by fire' to the NSW Rural Fire Service was made by the NSW Bush Fire Inquiry.¹

We acknowledge that extending the requirements to outages caused by natural disasters would likely increase the regulatory impact of the proposed Standard, due to the higher frequency of natural disasters relative to technical network failures. However, this increased regulatory impact appears commensurate to the increased consumer benefit, and any additional regulatory burden would be limited by thresholds set in the definitions of significant local outages and major outages.

To the extent that there are features of outages caused by natural disasters that may warrant differentiated or more limited requirements compared to other types of outages, we would encourage the ACMA to explore how they can be reflected in the proposed Standard. For instance, direct communications with the individual end user under section 10 may need to accommodate the specific circumstances of natural disasters. We consider a more tailored and targeted approach is likely to lead to better outcomes overall than simply limiting the scope of the proposed Standard.

Definition of significant local outages should be expanded

The ACCC recommends that the ACMA consider expanding the current definition of 'significant local outage' to capture a broader range of circumstances.

Under the proposed Standard, an outage that affected entire local areas of a similar size to Bathurst, Alice Springs or Lismore for multiple days would not trigger the Standard, as their respective populations are not above 50,000.² As such, CSPs would be under no obligation to communicate about the fault, its cause, and any expected timeframes to rectify it. This is likely to impact regional and rural communities to a greater extent due to the reduced presence of communication alternatives, as well as potential distance from nearby towns and regional centres.

As such, the ACCC considers there is merit in exploring the feasibility of expanding the definition to also capture circumstances in which an outage affects a discrete regional or rural community with a population less than the current threshold of 50,000. This would ensure that an entire regional community being affected by an outage would be able to benefit from the communications requirements in the proposed Standard.

¹ Analysis and Policy Observatory, [Final report of the NSW Bushfire Inquiry](#), 25 August 2020, Recommendation 30.

² ABS, [Population estimates by LGA, Significant Urban Area, Remoteness Area and electoral division, 2001 to 2023](#).

Other suggestions

The ACCC has a number of other suggestions on the proposed Standard which we consider would help strengthen the existing requirements and ensure their clear application.

- The obligation to communicate with end users in section 10(2) could be improved by a requirement to use the method likely to reach the most end users in the circumstances, or some other equivalent term. This would require that CSPs make a good-faith effort to contact their end users, rather than relying on a communication method that is convenient for them but unlikely to have the desired effect (such as via their app, where the app is not widely subscribed to). Ideally this would also be coupled with a requirement to use at least two of the available options, consistent with section 10(3) in relation to making information available to the public.
- There could be an additional requirement in sections 14(1) and 15(3) that when notifying or updating consumers regarding the outage, a CSP should also inform consumers when they should next expect contact from their CSP (i.e. after a material change or 2 hours, whichever is sooner). This would help consumers to feel confident in the communication processes of the CSP and reassured that they will be regularly updated regarding changes in the situation.
- Section 18(2) may be improved by requiring that phone calls be the primary contact method wherever possible (rather than live chat) for end users who may require urgent assistance. This would be particularly beneficial for disadvantaged consumers who may struggle to access live chat services, according to consumer advocates and complaint data collected by the Telecommunications Industry Ombudsman.³ The 2023 Digital Inclusion Index also highlights that 23.6% of Australians are digitally excluded,⁴ with significantly higher exclusion levels for vulnerable groups like people in public housing⁵ and First Nations people in remote areas.⁶ These vulnerable groups are likely to struggle with live chat services, and would benefit from the prioritisation of phone contact wherever possible. Additionally, the note attached to s18(2) should require that any alternative communication methods used must also be real-time or near real-time, to remove any risk of uncertainty.
- We also consider that consumers who may require urgent assistance (particularly for medical reasons) should be made aware of any alternative telecommunication options that may be available faster than when the outage would be resolved. This would aim to address the risk of consumers who are reliant on telecommunications for their medical needs being left without connection when alternative connection options were available.
- Lastly, the proposed Standard does not appear to contain any requirements relating to clause 6(c) of the Direction, which suggests that one of the objectives of the Direction is that carriers and carriage service providers make information about their process for communicating about major outages or significant local outages publicly available and easily accessible. We consider a provision requiring CSPs to publish their communication processes during outages on their website would likely be sufficient to satisfy this objective.

³ Telecommunications Industry Ombudsman, [Investigating complaints about essential mobile services](#), July 2022, p22-23.

⁴ Australian Digital Inclusion Index, [Measuring Australia's Digital Divide](#), 2023, p 10.

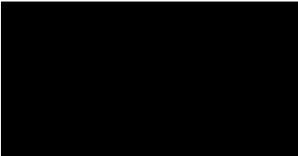
⁵ Australian Digital Inclusion Index, [Measuring Australia's Digital Divide](#), 2023, p 6.

⁶ Australian Digital Inclusion Index, [Measuring Australia's Digital Divide](#), 2023, p 14.

Thank you again for the opportunity to comment. We hope this submission is useful in informing the ACMA's views in finalising the proposed Standard.

If you wish to discuss any aspect of this submission further, please contact Brooke Tonkin (Director, Communications Consumer and Market Intelligence) on [REDACTED] or [REDACTED]

Yours sincerely

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Anna Brakey
Commissioner