



Consumer Safeguards Review – Part B/Reliability of Services

Submission by the Australian Communications Consumer Action
Network to the Department of Communications and the Arts

21 January 2018

About ACCAN

The Australian Communications Consumer Action Network (ACCAN) is the peak body that represents all consumers on communications issues including telecommunications, broadband and emerging new services. ACCAN provides a strong unified voice to industry and government as consumers work towards communications services that are trusted, inclusive and available for all.

Consumers need ACCAN to promote better consumer protection outcomes ensuring speedy responses to complaints and issues. ACCAN aims to empower consumers so that they are well informed and can make good choices about products and services. As a peak body, ACCAN will represent the views of its broad and diverse membership base to policy makers, government and industry to get better outcomes for all communications consumers.

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Attachment A: A Guarantee For the Future

1. Introduction

Telecommunications services are a critical enabler for the Australian economy. Roads and ports transport goods, while the internet transports services. Water and electricity networks enable health, and so too do telecommunications networks. Individuals and businesses rely on continuous access to telecommunications services in order to conduct business and manage their lives.

The current consumer protection framework inadequately reflects the essential service characteristics of telecommunications services and the current market structure. It places obligations on Telstra to provide fixed line voice services with no corresponding requirements for broadband or obligations for any other provider to meet standards. A new regulatory framework that reflects the principles set out in the Department's consultation paper is long overdue.

The Australian Communications Consumer Action Network (ACCAN) thanks the Department of Communications and the Arts (the Department) for the opportunity to comment on proposed future policy arrangements for the reliability of telecommunications services.

ACCAN is pleased to see that many of the ideas in the Department's consultation paper are consistent with our policy position on reliability released in 2016.¹ The policy position, called "A Guarantee for the Future" (see attachment A), identifies key requirements needed to support the delivery of reliable voice and broadband services for the future. ACCAN developed its policy position following extensive consultation with its members and industry.

This submission focuses on the high level principles and direction of reform outlined in the Department's consultation paper. However, ACCAN recognises that there is substantial work that will need to be done to implement the Department's proposals. ACCAN is well placed to continue to consult with its members and provide feedback to the Department throughout the implementation process to ensure the best possible outcome for the long term interests of consumers.

Note that all case studies used in this submission are based on real consumers however names have been changed.

¹ See: <https://accan.org.au/our-work/policy/1166-future-guarantee>

2. List of recommendations

Recommendation 1: Connection and repair timeframes

- a) Fixed line telecommunications services are essential and require regulation to protect consumers.
- b) Mandatory connection and repair timeframes should apply to all fixed line services delivered by all providers.
- c) The maximum timeframes applying to retail service providers should be at least the same as the existing Customer Service Guarantee and be defined in terms of days (not working days).
- d) Maximum timeframes applying to wholesale providers should be less than those applying to retail service providers.

Recommendation 2: Missed appointments

- a) There should be automatic compensation for customers for missed appointments.
- b) Compensation for missed appointments should be increased to \$100 as a baseline.
- c) The ACMA should have the flexibility to revise the compensation amount for missed appointments.

Recommendation 3: Service for customers with a diagnosed life threatening medical condition

- a) Consumer safeguards recognize the importance of providing a backup service for customers with a diagnosed life threatening medical condition.
- b) Customers with a diagnosed life threatening medical condition get prioritised connection and repair: within 24 hours for urban customers and within 48 hours for non-urban.
- c) Higher penalties should apply for non-compliance than those for general mandatory connection and repair timeframes.
- d) The ACMA determine the parameters of the backup service for consumers with a diagnosed life threatening medical condition.

Recommendation 4: One set of maximum connection and repair timeframes to apply to all fixed line products without exception.

Recommendation 5: Include a specific provision in the consumer safeguards instruments that provide telecommunications customers the right to exit a contract without penalty on the grounds of recurrent faults.

Recommendation 6: Incentives to repair faults quickly

- a) Customers receive automatic compensation for missed timeframes.
- b) Compensation amounts be set initially at current CSG levels for voice and broadband services.
- c) ACMA conduct a review to determine appropriate future compensation arrangements.

Recommendation 7: Network providers publish and report reliability information (including planned maintenance) by suburb and technology.

Recommendation 8: Network reliability information should be made public in consumer facing portals as well as consolidated reports published by the ACMA quarterly.

Recommendation 9: Communication with customers

- a) Retailers notify customers of major outages and remediation timeframes via usual channels of communication as well as broadcast in local media when multiple platforms are affected.
- b) Retailers provide a monitored email for customer communication.

Recommendation 10: Industry data for ACMA reporting

- a) Providers report reliability data as identified by ACCAN on a monthly basis to the ACMA.
- b) The ACMA conduct a review in consultation with the ACCC to determine appropriate performance targets.

Recommendation 11: ACMA publish reliability reports quarterly.

Recommendation 12: Enable the ACCC to determine wholesale pricing, with commercial agreements superseding only by exception and approval by the ACCC.

Recommendation 13: ACMA develop rules and standards to implement consumer safeguards for reliability with effect by 31 December 2019.

Recommendation 14: Consumer safeguards include provisions to exempt mass service disruptions from affecting performance benchmarks and penalties on application only for affected areas. Exemptions should not apply to consumer compensation.

3. Proposals 1 and 2: connection and repair

Proposal 1 - Mandatory rules will cover how consumers and small businesses are connected, and stay connected to fixed telecommunications networks, including appointments.

Proposal 2 – Providers must focus on keeping customers connected to a service if timeframes cannot be met.

ACCAN supports Proposals 1 and 2 regarding connection and repair. Mandatory rules are the best way to ensure that consumers have access to reliable telecommunications services. ACCAN understands that sometimes there are circumstances that are beyond the control of network infrastructure providers and retail service providers and so alternative arrangements are appropriate to maintain connection.

Below we set out our responses to each of the Department’s questions regarding Proposals 1 and 2 and ACCAN’s recommendations.

3.1. Connection and repair timeframes

The Department has proposed the timeframes in the tables below for connections and repairs.

Table 1: Proposed maximum timeframes for network connections

Area	Existing connection or close to required infrastructure	Not close to required infrastructure
Significant urban areas ²	Within 2 working days	Within 10 working days
Other	Within 3 working days	Within 15 working days

Table 2: Proposed maximum timeframes for repairs

Area	Repair time
Significant urban areas	End of next working day
Other	End of second working day

It has asked:

“Are the proposed timeframes to connect or repair a service reasonable?”

The table below compares the connection and repair timeframes proposed to the existing timeframes under the Customer Service Guarantee (CSG).

² ABS designation for significant town and city areas of 10,000 people or more.

Table 3: Comparison of Connection and Repair Timeframes

		Current	Proposed	Difference
Connection				
	Urban (existing connection)	Within 2 working days	Within 2 working days	No difference
	Urban (close to infrastructure and spare capacity)	Within 5 working days	Within 2 working days	-3 working days
	Urban (without infrastructure or spare capacity)	Within 20 working days	Within 10 working days	-10 working days
	Major rural (existing connection)	Within 2 working days	Within 3 working days	+1 working day
	Major rural (close to infrastructure and spare capacity)	Within 10 working days	Within 15 working days	+5 working days
	Major rural (without infrastructure or spare capacity)	Within 20 working days	Within 15 working days	+5 working days
	Minor rural (existing connection)	Within 2 working days	Within 3 working days	+1 working day
	Minor rural (close to infrastructure and spare capacity)	Within 15 working days	Within 15 working days	No difference
	Minor rural (without infrastructure or spare capacity)	Within 20 working days	Within 15 working days	-5 working days
	Remote (existing connection)	Within 2 working days	Within 3 working days	+1 working day
	Remote (close to infrastructure and spare capacity)	Within 15 working days	Within 15 working days	No difference
	Remote (without infrastructure or spare capacity)	Within 20 working days	Within 15 working days	-5 working days
Fault repair				
	Urban	End of next working day	End of next working day	No difference
	Rural	End of second working day	End of second working day	No difference
	Remote	End of third working day	End of second working day	-1 working day

The colours in the table represent the following:

- Green cells represent an improvement in the timeframe compared to the current CSG timeframes (a decrease in the number of maximum working days);
- Amber cells represent no change in the timeframe compared to the current CSG timeframes; and
- Red cells represent a decline in the timeframe compared to the current CSG timeframes (an increase in the number of working days).

As shown in the table, there are a number of changes which impact consumers:

- The timeframes for fault repair in remote areas has reduced from the end of the third working day to the end of the second;
- The timeframes for “without infrastructure or spare capacity” connections in all areas have reduced. The proposed connection timeframe for all non-urban areas is 15 working days (previously 20 working days) and is 10 working days in urban areas (previously 20 working days);
- The timeframes for “close to infrastructure” connections in urban areas has reduced;
- The timeframes for “existing connections” in major rural, minor rural and remote areas have increased from within 2 working days to within 3 working days; and
- The timeframes for “close to infrastructure and spare capacity” connections in major rural areas has increased from within 10 working days to within 15 working days.

The area definitions for which timeframes apply have condensed from four connection categories (urban, major rural, minor rural and remote) and three fault repair categories (urban, rural and remote) to two (urban and other). This largely improves maximum timeframes as well as simplicity, however, some customers are worse off. It is not reasonable for mandatory timeframes to increase.

The majority of connections and fault repair will be performed by nbn co on a largely new, integrated network. Thus, it is not reasonable to increase the maximum timeframes from those Telstra is expected to deliver over a legacy network with legacy systems and technology. Since the CSG timeframes were introduced, provisioning and management systems should have improved such that we can expect more from a new network provider, not less. The new arrangements should at least offer the same protection customers get now and reflect current customer expectations from a new network. For example, if there are circumstances where a site visit is not required (eg for an in place connection, customer transfer for a churn or move) than it should be recognized in the maximum timeframes as quicker than a new connection being installed.

Moreover, the use of working days, instead of days, means that mandatory connection and repair timeframes are longer over weekends and public holidays. However, the demand for essential connectivity does not change depending on a working day designation. Individual and small business consumers rely on continuous access to voice and data services and so mandatory connection and repair timeframes should reflect that.

ACCAN supports the connection and repair timeframes applying to all providers and fixed line services. Consumers are increasingly relying on fixed line broadband and the current framework provides no regulatory protection for connection and repair timeframes. Moreover, the current

framework only provides a mandated timeframe for voice services provided by Telstra. Thus a mandated timeframe for connection and repair for all fixed line services provided by all retailers is a massive improvement which ACCAN strongly supports.

We note however that operationalising these maximum timeframes in a vertically separated environment requires obligations to be placed on both network providers and retailers. The separate obligations will need to recognize that a shorter timeframe will be necessary for network providers to enable retail processes within the maximum timeframes experienced by end-users.

Recommendation 1: Connection and repair timeframes

- a) Fixed line telecommunications services are essential and require regulation to protect consumers.
- b) Mandatory connection and repair timeframes should apply to all fixed line services delivered by all providers.
- c) The maximum timeframes applying to retail service providers should be at least the same as the existing Customer Service Guarantee and be defined in terms of days (not working days)
- d) Maximum timeframes applying to wholesale providers should be less than those applying to retail service providers.

3.2. Missed appointments

The Department has proposed a penalty of \$100 for each missed appointment payable to the customer by the party responsible for the missed appointment. An appointment must be made for a specific time, or within an agreed time window of no more than 3 hours. An appointment would be missed if the technician does not arrive within the agreed time period, or is more than 15 minutes late if there is a specific agreed time. Appointments can be changed with 24 hours’ notice. The Department has asked:

“Will the proposed arrangements and penalties for missed appointments provide suitable incentives for industry?”

ACCAN welcomes the proposal to increase the compensation to consumers for missed appointments. We also note the proposal to mandate appointment windows being no more than 3 hours.

Missed appointments are a perennial point of frustration for many consumers. Consumers often need to take time off work to attend appointments and a missed appointment requires rescheduling the appointment. These are significant costs to consumers, particularly for those that cannot work from home or work a partial day (e.g. shift workers). Under the current CSG, consumers are entitled to \$14.52 and small businesses \$24.20 for each missed appointment. An increase in the compensation is recognition of the significant cost some consumers face to attend appointments.

However, it is unlikely that \$100 will compensate all consumers in all circumstances for a missed appointment. ACCAN supports \$100 as a starting point for missed appointments to provide compensation for consumers and penalties (incentives) for providers. Accordingly, we believe that

the frequency of missed appointments should be monitored and the regulator should have the flexibility to recalibrate the compensation (penalties) in response to circumstances.

Compensation for missed appointments should also be automatic. That is, if a provider has scheduled an appointment but not attended within the timeframe, the customer should automatically receive the compensation. Customers should not have to inform the provider of the missed appointment or apply for compensation. Under the current arrangements CSG providers are required to inform customers of their rights but we hear of many cases where this is not happening. Automatic compensation requires systems and processes for payments and will not rely on customers knowing their rights or being informed by a provider with no incentive to do so.

Recommendation 2: Missed appointments

- a) There should be automatic compensation for customers for missed appointments.
- b) Compensation for missed appointments should be increased to \$100 as a baseline.
- c) The ACMA should have the flexibility to revise the compensation amount for missed appointments.

3.3. Service for customers with serious medical conditions

The Department has proposed that all providers must offer and put in place arrangements to provide or arrange a backup or alternative service for consumers with a diagnosed life threatening medical condition when signing them up to help those consumers seek emergency assistance if required. A provider cannot decline to connect and/or supply a service solely on the grounds of having to provide this service.

The Department has asked:

“Are there other options that could help maximise service continuity for people with a diagnosed life threatening medical condition?”

ACCAN welcomes the recognition that customers with a diagnosed life threatening medical condition require service continuity to be able to seek emergency medical assistance and that they should be able to choose their provider. Alternative services to provide service continuity are particularly important with the advent of fibre-based services as they do not work in the event of a power failure.

Currently, Telstra is the only provider required to offer a policy to connect or reconnect customers with a diagnosed life threatening medical condition on a priority basis. This policy is called Priority Assistance and is a license condition. No other provider is required to provide it and consequently, none do.³ Priority Assistance customers generally pay more for voice services as Telstra is

³ Note that iPrimus currently has Priority Assistance customers (and reports to the ACMA), however it is no longer accepting new Priority Assistance customers. See <https://www.iprimus.com.au/support/priority-assistance/>.

consistently the most expensive voice provider. The table below compares Telstra's voice plans to a sample of low cost plans available from other providers.

Table 4: Comparison of selected low cost home phone plans

Provider		Telstra		Optus	TPG		Southern Phone		
Plan		Home Phone Basic	Home Phone Essential	Home Phone Plan	Voice Add-on Pay as You Go	Oz Talk	Standard	VOIP Small	VOIP Medium
Conditions		-	Health card or Pension card	24 month contract	Broadband plan	Broadband plan	-	Broadband plan	Broadband plan
Monthly charge		\$29.95	\$25	\$22	\$0	\$10	\$24.95	\$5	\$10
Installation charge		\$99	\$0	\$0	\$99.95 unless on contract	\$99.95 unless on contract	\$99-\$339	\$0	\$0
Local calls		30c per call	22c per call	30c per call	25c per call	Unlimited	25c per call	10c per call	Unlimited
National calls to standard fixed lines	Cap	\$3 for the first 3 hours, 7pm to 12am	\$3 for the first 3 hours	\$2 for calls up to 1 hour		unlimited	\$1.98 for 1 hour	\$1.98 for 1 hour	Unlimited
	Connection	55c per call	55c per call	52c per call	39c per call		45c per call	39c per call	
	Calling	25c per minute	25c per minute	28c per minute	25c per minute		25c per minute	25c per minute	
13 numbers		40c per call	40c per call	35c per call	30c per call	30c per call	40c per call	40c per call	40c per call
Calls to Australian mobiles	Cap	Calls to Telstra mobiles \$3 for the first 20 minutes, 7pm to 12am	\$3 for the first 20 minutes per call	\$2 for calls up to 1 hour	\$2.48 up to 20 minutes per call	unlimited	\$1.49 for 10 minutes	\$1.49 for 10 minutes	\$1.49 for 10 minutes
	Connection	55c per call	55c per call	52c per call	39c per call		45c per call	39c per call	39c per call
	Calling	36c per minute	30c per minute	28c per minute	39c per minute		37c per minute	37c per minute	37c per minute

Source: information compiled from company websites on 15 January 2019

The current license condition requires Telstra to develop a policy and for the ACMA to approve it. Priority assistance requires a connection or reconnection of the standard telephone service within 24 hours in urban areas and within 48 hours outside urban areas. The policy also sets out examples of medically diagnosed conditions that may qualify customers for the policy and the process to qualify.

Box 1: Summary of Telstra’s Priority Assistance Policy⁴

Telstra’s priority assistance service is available to customers with a diagnosed life-threatening medical condition whose life may be at risk if they don’t have access to a functioning phone line, and who have a Telstra fixed home service. Customers can also be registered as a priority customer if someone living in their home has a life-threatening medical condition. The policy outlines some eligible medical conditions, including people facing high risk of respiratory, cardiovascular, obstetric or neonatal emergencies, high risk of life threatening hypoglycaemia or epilepsy, high risk mental health disorders, technologically dependent patients who are at high risk and dependent patients who live alone, without support or in remote locations.

In order to be eligible, customers must provide certification of their eligibility to receive priority assistance. Customers can apply by completing and returning the necessary application form to Telstra, with the policy outlining that Telstra will process all applications within 5 working days. Once registered for priority assistance, customers remain registered for up to three years, and will not be charged for this priority service.

The policy outlines that an interim service or an alternative service is to be provided to the customer if timeframes can’t be met. If a priority customer accepts an interim priority service, Telstra’s policy explains that they would supply this within 24 hours in urban and rural areas, or 48 hours in remote areas.

Telstra’s policy also details that it will respond to emergency medical requests from customers who have not registered for priority assistance on a case-by-case basis, and outlines the procedures it will follow in these incidents.

Despite the current arrangements for Telstra to provide priority assistance within 24 hours for urban customers and within 48 for non-urban customers there are significant numbers of cases where assistance takes longer. The tables below show the proportion and volume of cases where Telstra misses the timeframes under its priority assistance policy.

⁴ Available: <https://www.telstra.com.au/content/dam/tcom/personal/consumer-advice/pdf/priority-assist-policy.pdf>

Table 5: Estimated Telstra priority assistance connection requests not completed on time

	National		Urban		Rural		Remote	
	%	Volume	%	Volume	%	Volume	%	Volume
2012-13	7.1	3,263	7.1	2,487	7.1	756	10.9	34
2013-14	6.8	2,530	6.7	1,937	7.1	571	11.2	28
2014-15	7.6	2,812	7.7	2,210	7.4	600	6.9	13
2015-16	9.2	4,197	9.8	3,476	7.2	716	10.1	20
2016-17	8.8	3,820	8.8	2,978	8.7	818	0.7	1

Source: Calculated from ACMA Communications Report 2016/17

Table 6: Estimated Telstra priority assistance fault repair requests not completed on time

	National		Urban		Rural		Remote	
	%	Volume	%	Volume	%	Volume	%	Volume
2012-13	4.5	7,321	3.4	4,041	7.7	3,341	8	44
2013-14	4.9	6,005	3.9	3,620	7.9	2,315	9.1	39
2014-15	5.4	7,624	4.3	4,619	8.9	2,965	6	27
2015-16	5.4	7,285	4.7	4,783	9.2	3,008	9.9	44
2016-17	6.1	6,656	5.4	4,281	8.2	2,421	8.2	32

Source: Calculated from ACMA Communications Report 2016/17

The problem with the reporting arrangements is that the figures above only show how many connections and repairs were not done within the timeframe – not how long they took. We hear stories that it can take much longer than the timeframe, which is distressing for customers. The case study below took weeks to get connected and highlights the distress and effort a customer had to endure. It is imperative that customers continue to have access to such a policy and that the penalties for non-compliance are higher than for mandatory connection and repair timeframes in order to signify the seriousness of a breach.

Box 2: Case study - delayed priority assistance connection

Lynda was a priority assistance customer in Victoria planning to move house. She notified Telstra two weeks prior to her scheduled move in date, which was the last week of January. Lynda contacted ACCAN 43 days after her move to say that her phone and internet were still not connected. She said she called Telstra every day for the 43 day period and was told that her service had been cancelled and reordered 9 times for technical reasons. She was relying on a mobile phone that had intermittent coverage inside her home.

ACCAN contacted Telstra who said it was a problem with the nbn service. ACCAN then contacted nbn who said the order wasn't made by Telstra until 16 February and nbn completed it on the same day. Nbn said that Telstra logged a service restoration request on 23 February but NBN said it completed remote testing on that day and informed Telstra there was no issue from nbn's end so Telstra should perform on site testing. ACCAN raised the issue with Telstra for investigation and expedite the connection and was told the order failed with the nbn and the customer was offered a copper service as an alternative. ACCAN contacted Lynda to relay the information from nbn and Telstra. Lynda said she told Telstra to deal with her son because it had become too stressful and that no copper service was offered.

Lynda was finally connected to the NBN by Telstra on 17 March, about 7 weeks after her request.

The priority assistance policy is for customers in urban areas get connected within 24 hours or offer an alternative service to be connected within the same timeframe.

The Department’s proposal to require all providers to offer a backup or alternative service to customers with a diagnosed life threatening medical condition is a substantial improvement for these customers in terms of service continuity and choice. ACCAN recommends that the ACMA determine the parameters of the backup service, including the conditions for consumer access. This will ensure that there are clear and standard criteria for RSPs to implement and ensure consumers requiring continuous service have a clear understanding of what level of service they will receive. It will also prevent different definitions of customers with a medically diagnosed life-threatening condition and enable a public consultation process for determining the regulation.

There may be circumstances that an alternative service is not available for backup or the backup fails such as mobile blackspots or network failures. In this regard, ACCAN recommends that customers with diagnosed life-threatening medical conditions continue to have access to prioritised connections and repair.

Recommendation 3: Service for customers with a diagnosed life threatening medical condition

- a) Consumer safeguards recognize the importance of providing a backup service for customers with a diagnosed life threatening medical condition.
- b) Customers with a diagnosed life threatening medical condition get prioritised connection and repair: within 24 hours for urban customers and within 48 hours for non-urban.
- c) Higher penalties should apply for non-compliance than those for general mandatory connection and repair timeframes.
- d) The ACMA determine the parameters of the backup service for consumers with a diagnosed life threatening medical condition.

3.4. Provider variance in connection and repair timeframes

The Department has suggested that industry could compete by offering different levels of reliability. It has asked:

“Should providers be able to seek approval from the ACMA to offer services with different reliability timeframes on a product by product basis (which if approved would then become binding)? If so, what process and criteria would best support this?”

ACCAN does not support any increases in the maximum reliability timeframes. The purpose of reliability timeframes is to provide minimum safeguards available to all consumers for all fixed line products.

A minimum standard provides fair and equal access to all consumers. One standard is simple for retailers to communicate, and for consumers to understand their rights. Furthermore, it reduces the burden on the regulator to monitor and enforce the standard, increasing the likelihood of compliance.

Enabling providers to submit products for approval to the ACMA would create a tremendous amount of work for the ACMA and also subverts public consultation processes. Any reliability standards should be set following a public consultation process and making product by product determinations does not allow for this. Moreover, product by product approvals tie up limited regulatory resources for industry benefit without knowing if consumers want lower standards. A single, minimum reliability standard and connection/repair timeframe should be maintained.

Recommendation 4: One set of maximum connection and repair timeframes to apply to all fixed line products without exception.

3.5. Contract termination for frequent or recurring faults

The Department has asked:

“Should consumers be given the option to exit their service contract without penalty where frequent or recurring faults occur?”

Currently under the Australian Consumer Law (ACL) consumers have the right to exit a contract due to a major failure to comply with a statutory guarantee (under s 267 ACL). However, the current drafting of the legislation does not provide clear guidance under section 268 concerning whether minor recurring failures constitutes a major failure. As a result, Consumer Affairs Australia and New Zealand have proposed to clarify that multiple non-major failures can amount to a major failure. It argued that clarification would be consistent with the legislative intent and interpretation of regulators. However, this proposal was not picked up in the legislative amendments and so clarifying it specifically in the telecommunications framework is appropriate.

The statutory guarantees for services are also materially weaker than those for goods under the ACL and accordingly there is a need for a specific right for consumers to exit service contracts or they would have to sue under contract law. However, a key limitation of the right to exit the contract in telecommunications is that if the cause of the recurrent fault is the infrastructure provider, changing retailers will not address it. In the presence of alternative networks, such as mobile or fixed wireless, the right to exit contracts may help with incentives to address recurring faults.

Recommendation 5: Include a specific provision in the consumer safeguards instruments that provide telecommunications customers the right to exit a contract without penalty on the grounds of recurrent faults.

3.6. Incentives to repair faults quickly

The Department has proposed maximum timeframes for connections and repairs applicable to all providers and fixed line services (discussed in section 3.1). It has proposed that significant penalties will apply for non-compliance. Under proposed standards, customers will not be billed for any period where a customer does not have a working connection. If the maximum timeframes cannot be met, the provider must, until the issue is resolved, find another way to keep the customer connected at no additional cost. If another party (such as the network provider) is responsible for a mandatory

timeframe not being met, it will reimburse the retailer the cost of providing any agreed backup or alternative service.

The Department has asked:

“How can industry best ensure consumers are not left without a working fixed connection for lengthy periods? What alternative service arrangements are reasonable?”

Industry has the technological means to quickly connect or reconnect customers (or provide alternative arrangements) such that customers are never without a working fixed connection for lengthy periods. However, doing so has costs. Consequently, industry will best ensure customers are not left without a working fixed connection for lengthy periods if it costs less to fix the connection than to leave the connection not working.

Customers are often left without a working fixed connection for lengthy periods because to fix the connection is expected to incur significant costs (either directly through labour and materials or indirectly through diverting labour). ACCAN often hears from customers on Telstra’s legacy network of unrepaired faults that last weeks and even months. For example, at the Isolated Children’s Parents Association (ICPA) Federal Conference in 2018, delegates reported regular experiences of two weeks a month without a phone service, and deep concerns about maintenance of voice over Telstra’s HCRC network based on experiences of delayed fault repairs due to parts that needed to be ordered by Telstra to address problems.

These individual experiences are confirmed by the trends revealed in Telstra’s Network Reliability Framework figures. In 2016-17 there was an increased duration of time taken to restore faulty services compared to the previous year – an average of 97 hours compared to an average of 76 hours in 2015-16. The average figures for non-urban areas are very concerning – 119 hours in 2016-17, compared to 90 hours in 2015-16.⁵

The current CSG framework provides a quantifiable cost to Telstra of leaving a connection unrepaired. If a service connection or repair is delayed beyond the mandatory timeframe, customers are entitled to \$14.52 per working day for the first five days and \$48.40 for each working day thereafter. These are significant costs and yet Telstra pays millions annually with the amount increasing substantially in the last two years, as shown in the table below.

Table 7: Telstra CSG volume and payments information

Year	2011/12	2012/13	2013/14	2014/15	2015/16	2016/17
Volume	137, 348	143, 294	106, 038	56, 114	153, 310	198, 514
Total	\$4.57m	\$6.14m	\$5.65m	\$2.81m	\$9.29m	\$14.58m

Source: ACMA Communications reports 2011/12 – 2016/17.

⁵ ACMA, *Communications Report 2016-17*, 2017.

ACCAN considers that faults are left unrepaired because Telstra assesses the cost of fixing them sooner as more expensive than potential compensation. This is likely because the compensation arrangements are too low, the probability of customers claiming compensation is low and the technology is expensive to maintain. In addition, with the migration to the NBN, increasingly CSG infrastructure services are being provided by NBN but it is not subject to the same requirements as Telstra, pointing to the need for synchronised complementary obligations at a wholesale and retail level.

With the advent of new fixed-line networks, it is likely that maintenance costs are much less than on Telstra's legacy network. Thus, industry will have the incentive to fix faults if the individual incentive is high enough and currently NBN faces limited incentive to quickly fix faults or make connections. Some faults though can be caused by retail service provider errors such as wrongful disconnection or the incorrect information being provided to the infrastructure provider. Thus incentives need to be on both the infrastructure provider as well as the retailer, as highlighted in the case below.

Box 3: Case study -wrongful disconnection from NBN, delayed reconnection

Joy is a small business owner in WA who has an nbn voice and broadband connection with Commander. On a Monday in November 2018, her phone and internet was cut off without explanation.

Joy contacted Commander and was told she had applied for a disconnection and so nbn disconnected the service. She then contacted nbn and it advised that it would not have disconnected without an order from the RSP. Joy contacted the TIO as well as ACCAN, then ultimately raised the issue with her local MP. She was reconnected about 10 days later following the local MP contacting NBN Co. During the 10 day period she called Commander one to two times a day to get reconnected. The case manager never followed up with her and she was not offered any compensation.

During her disconnection, Joy diverted calls to her mobile. Managing the volume of calls on her personal mobile was difficult at the same time she was trying to resolve the disconnection of the business lines. Online platforms she needed to run her business were inaccessible while the broadband connection was down. This caused a backlog in work that had to be completed manually while system access was down and then needed to be redone once system access was restored. ACCAN contacted Joy months later to discover she was still managing the backlog and other impacts on the business from the disconnection.

Currently retailers other than Telstra can ask customers to waive their rights to compensation under the CSG and most do. Thus the figures above do not represent the full picture of connection and repair timeframes, as the Department reports that 23% of customers with fixed voice services are not covered by the CSG. The case study below highlights the difficulties these customers face trying to get problems fixed and negotiating compensation.

Box 4: Case study - delayed fault repair for non CSG fixed line voice

Greg has a fixed line voice service with My Republic. During a 16 week period he was unable to receive inbound calls. During the 16 week period he contacted My Republic over 20 times via chat,

phone and email. My Republic never contacted him about a fault and only replied to two emails. After a couple of weeks Greg contacted the TIO which eventually helped get his service working properly. Once the service was fixed and working properly he asked about compensation. Under the CSG Greg would be entitled to over \$3000 however the retailer offered him \$160, less than he paid in monthly service charges during the affected period. He has asked for 25% of the CSG entitlement (\$707) given the time he spent trying to resolve the problem but My Republic has refused. Greg reported to ACCAN that he will pursue the matter in a small claims court.

The case study above, and others reported in this submission, highlight the loss to consumers in terms of time spent trying to resolve their telecommunications service issues. As discussed in ACCAN’s submission to Part A of the Consumer Safeguards review,⁶ in the field of telecommunications, the quantification of the losses faced by consumers has been inadequate, which has led to underestimates of harm and in some instances a failure to regulate. ACCAN is developing further refined measures of the end user consumer losses attributable to market failure, however early estimates indicate that on a conservative basis consumers are facing detriment through:

- Direct economic loss, in terms of forgone services or lower quality services;
- For small businesses loss of income and commercial opportunities; and
- For individuals seeking rectification or redress, wasted time.

We have done some preliminary analysis of consumer loss in our submission on the proposed ACMA Line Testing Determination, where we estimated that the cost to consumers associated with loss of service due to disconnections was likely to be within a minimum range of between \$3.6 to \$5.5 million in the 2016-17 financial year.⁷

For small businesses the costs associated with disconnection or poor services can be significant, and significant losses can arise due to forgone revenue and income. The costs associated with problems switching over to the nbn alone have been estimated at an average of \$9000, according to a recent NSW Business Chamber survey.⁸ Although a small sample, the results of the survey accord with the information ACCAN has received from consumers many of who have lost \$3000-\$4000 in income as a result of disconnections.

The Department has proposed that network providers and retailers are unable to charge for a service that is not working and that penalties will apply for non-compliance with mandatory timeframes. With this arrangement, compensation available for consumers will be significantly less than the current CSG. For example, the monthly bill would need to be over \$400 to reach the daily rate currently available for the first five days to residential consumers. Consequently, it is likely that a “no bill” scenario will not provide sufficient incentive to fix individual faults and while penalties and

⁶ ACCAN, *Submission to the Consumer Safeguards Review - Part A: Redress and Complaints Handling*, 2018.

⁷ ACCAN, *Submission to the Telecommunications Service Provider (NBN Line Testing) Determination*, 2018.

⁸ NSW Business Chamber, *NBN and telecommunications survey*, 2018.

public reporting might provide sufficient incentives, they provide no compensation to the individuals and small businesses that are affected.

At the same time, the Department has also proposed that alternative (or backup) services be provided to customers at the expense of the at fault party if a mandatory timeframe cannot be met. In theory this may amplify the incentive to comply with mandatory timeframes, however it may be difficult to uniformly apply in practice as not all RSPs have access to alternative service arrangements.

The Department’s proposal for mandatory timeframes with significant penalties for non-compliance is absolutely necessary. Telecommunications are essential services and consumers view them the same way they view other utilities. As stated by the Department, consumers expect it to be easy to get and stay connected so they can reliably use the services and applications they want. Telecommunications services thus warrant a regulatory framework akin to other essential services: with clear objectives on the role of providers and associated obligations with steep penalties for breaches. At the same time, the consumers that are directly affected by non-compliance require compensation in recognition of the significant damages that are incurred by the loss of an essential service. Consumers rely more on fixed broadband and voice access now than at the time the CSG was introduced.

Thus, ACCAN recommends that the Department maintain the current CSG compensation amounts and direct the ACMA to conduct a review to determine an appropriate future compensation arrangement. The existing CSG compensation amounts are for voice-only services so a review is necessary to determine what an appropriate level is for broadband as well as to assess if the amounts for voice are appropriate for the current environment.

Furthermore, payments for connections and repairs outside the maximum timeframes should be automatic by both the network provider and retail service provider. That is, if a wholesale network provider has connected a customer after the maximum timeframe it should automatically trigger a payment to be made against the retail service provider’s account. Likewise, the retail service provider should automatically make a payment to the customer. Automatic compensation requires systems and processes for payments and will not rely on customers knowing their rights or being informed by a provider with no incentive to do so.

Recommendation 6: Incentives to repair faults quickly

- a) Customers receive automatic compensation for missed timeframes.
- b) Compensation amounts be set initially at current CSG levels for voice and broadband services.
- c) ACMA conduct a review to determine appropriate future compensation arrangements.

4. Proposals 3 and 4: reliability reporting

Proposal 3 – Network infrastructure providers that support the supply of retail services to consumers will be required to publish network reliability metrics and to report to the ACMA on network performance.

Proposal 4 – The ACMA will be responsible for the collection of data relating to fixed connections, repairs and appointments, with reporting obligations applying at both wholesale and retail level. The ACMA will publish the results.

ACCAN supports Proposals 3 and 4 regarding reliability reporting. Reporting reliability outcomes are a necessary part of consumer safeguards. Information for consumers promotes choice and encourages compliance among providers. Reliability reporting needs to be in place across all telecommunications networks and have sufficient detail to identify where problems are on which networks so that the ACMA can enforce compliance. Furthermore, reliability data needs to be available in an easy to understand format in order to drive network accountability.

Below we set out our responses to each of the Department’s questions regarding Proposals 3 and 4 and ACCAN’s recommendations.

4.1. Information for consumers

The Department has proposed that network infrastructure providers that support the supply of retail services to consumers will be required to publish network reliability metrics and to report to the ACMA on network performance. The Department has asked:

“What information on network reliability is most meaningful and valuable to consumers?”

In our experience speaking with consumers, we understand that consumers are primarily concerned with whether a network is available at their home and whether it works as intended. That is, network reliability is most meaningful and valuable when it is understandable and local. Thus, network reliability information needs to be clearly and simply defined and standardised so that customers can easily compare networks or offers.

Box 5: Case study - mobile phone planned service disruption not communicated to customer

Annie has a mobile phone with a major telco (Optus) and lives in outer suburban Sydney. The telco knew where Annie lived and sent the phone to her address for the new service. When Annie got the phone it had some reception at home. About a year into the contract that reception at home went to none at all. The telco did not notify about any change to the service.

Annie kept using the phone outside home but became worried when there was still no reception at home weeks later. Annie then realised the term of the contract was soon going to be over and decided that she would cancel when the contract ended. Annie tried to find an email address to cancel and could not find one. Annie wanted to cancel in writing and could not call when at home as the mobile was her only phone.

Annie decided to send a letter by post to Optus cancelling the contract in writing and raising a dispute about the reception. Annie received an email response 2 weeks later dismissing her concerns and telling her to call a number about her reception issues.

A dispute was lodged with the TIO. Optus admitted that there had been work on the local mobile tower for some months and that this may have caused the reception issues. Annie received a partial refund on service fees but the phone contract was still not cancelled. Annie contacted Optus again and provided a copy of the sent cancellation notice and finally had the contract cancelled. Annie has now moved to another service provider and has reception at home.

Thus, information that is the most meaningful and valuable to consumers should be able to answer a simple series of questions:

- What network technology can I get at my home?
- In the last quarter how many outages did people in my neighbourhood on this network experience? What was the average duration of those outages?
- Are there any planned major service disruptions in the future?

This requires network reliability to be measured at the local level (eg suburb) and be available to customers by simply providing their residential address. It should be in a useable and accessible format such as a searchable database online. This enables customers to make decisions regarding their service provider. For example, when choosing a mobile provider if a customer is only going to rely on a mobile service at home they need to know if there is coverage in the home. Further if there are planned interruptions in the forthcoming period they could choose to go with another provider, depending on how they value service at home.

Recommendation 7: Network providers publish and report reliability information (including planned maintenance) by suburb and technology.

4.2. Publication of network reliability data

The Department has proposed that network infrastructure providers that support the supply of retail services to consumers will be required to publish network reliability metrics and to report to the ACMA on network performance. The Department has asked:

“How should network reliability information be made publicly available, and how often should providers be required to report to the ACMA?”

Network reliability information should be made publicly available in the form of consolidated reports on the ACMA’s website including excel files with data. Consumers should also be able to access local information in consumer facing portals such as on a website or by providing their address to a representative (in person or on the phone). Reports should be published quarterly.

Recommendation 8: Network reliability information should be made public in consumer facing portals as well as consolidated reports published by the ACMA quarterly.

4.3. Communication with consumers

The Department has asked:

“If and how should consumers be advised of major outages and timeframes for remediation?”

It should be mandatory that service providers notify customers of outages. Notification enables customers to plan for the inconvenience and minimises frustration. For example, if there is going to be a planned outage for maintenance and the customer usually works from home, they can make alternative arrangements for that day such as going to the office, or a public library or other place with Wifi. The frustration customers can face when planned outages are not communicated is highlighted in the case study below.

Box 6: Case study – planned HFC outages without sufficient information provided to customer

Fran started to experience issues with her HFC internet connection in Sydney at around the time the NBN was being installed in her area. Fran never received any notification that there would be any problems. The problems during 4 months were recurring problems with the internet being out for hours then returning. Fran often checked the telco web page for faults but there was usually nothing listed. Fran constantly rebooted her modem to check if the problem was with her own network.

Fran works from home so the rolling disruptions with her internet were a major problem. It stopped her from working regularly. The telco did notify her in writing about disruptions for a 2 week period. However, they did not say when the disruptions would be within that period or offer any refund for the lack of service.

Fran signed up with another telco for the NBN as soon as it was available. Fran never received a refund for the constant disruptions from her HFC provider. Fran decided not to pursue a refund because of the difficulties in proving the extent of the disruptions. Fran had to send two online forms and two emails to get the former telco to cancel her service.

Consumers should be advised in the usual way of communicating with their RSP (eg post, email or SMS) as well as post updates on provider apps and website, social media or information hotline. However, if there are major outages that affect would affect customers’ ability to access usual communications, RSPs should report to local radio and media.

Community targeted information is particularly important for those that have the least connections to technology. For example, an older customer that relies on a landline without mobile or the internet may not receive messages about their service. The best way to target these customers is through the post. Notifying hard to reach customers may also be possible by connecting with community and health service providers. For example, the RSP could notify a list of service providers in a community such that if there are home visits or interactions of any kind the providers will have information about the outage to share with the affected consumers.

It should also be mandatory for service providers to offer email as a way of communicating with them. The email should be monitored and customers should be able to ask about their service or notify of service interruptions.

Recommendation 9: Communication with customers

- a) Retailers notify customers of major outages and remediation timeframes via usual channels of communication as well as broadcast in local media when multiple platforms affected.
- b) Retailers provide a monitored email for customer communication.

4.4. Industry data for ACMA reporting

The Department has asked:

“What industry data should be provided to the ACMA for analysis and reporting, and how often should this be provided (for example, monthly, quarterly)?”

Industry data is a crucial aspect of a consumer protection regime. Whilst most data won't be meaningful or useful to individual customers it is absolutely necessary for regulators, policy makers and advocates. It is the only way to monitor the effectiveness of the regime.

The current arrangements are insufficient for determining how long connection and fault repairs take and how many customers are affected by lengthy outages. Currently, averages are used by geographic area showing the number that meets the standard. Other information such as the number of connections, fault repairs and appointments requested is provided but with only total payments such that it is not known how far from the standard benchmark these are (for example, whether a fault was repaired one week or four weeks over the CSG benchmark). This information is reported by the ACMA and has been consolidated into table 8 below.

Under the Network Reliability Framework Telstra has to provide additional reporting on fault repair on its copper network. There are three levels of reporting:

- Level 1—national and geographical area level, based on Telstra's 44 field service areas (FSAs)
- Level 2—local-level cable runs in disaggregated parts of the network
- Level 3—individual service level that includes all Telstra services covered by the CSG Standard.

Level 1 has overall reliability levels with the ACMA reporting average time to repair fault levels. Level 2 requires Telstra to report on and undertake remediation work of the 40 poorest performing cables runs. The ACMA doesn't report where these are located or the proportion that were identified in previous reporting periods (that is, remediation work incomplete or not addressed). Level 3 relates to individual CSG services that experience either 3 faults in a rolling 60-day period or 4 faults in a rolling 365 day period. Telstra reported a slight increase in the number of services experiencing breaches of the 60-day threshold, with 27 breaches per month (on average) and a total of 320 for 2016–17.

Thus although the overall network performance is known at an aggregate level, we cannot see how faults (or breaches) are distributed between regions or the distribution of repair times. That is, how many customers experience repair times greater than 1 week, 2 weeks, 3 weeks etc. Therefore we believe more detailed reporting is warranted.

We also have concerns about the impact of the CSG performance benchmark. Since the performance benchmark is set at 90%, there is not much incentive for the industry to perform beyond that (other than with respect to individual CSG payments). We believe performance targets should be set much higher with escalating incentives (or penalties) in addition to customer compensation. Table 9 below shows the calculated number of connections and fault repairs **not** completed on time and missed appointments. This illustrates that despite all providers meeting the benchmarks in the last reported year, the number of connections and fault repairs completed outside of the maximum timeframe is substantial.

Table 8: Volume of connections, fault repairs and appointments made within the maximum CSG timeframes, 2016/17

		Fault repairs			Appointments	New service connections				In-place service
		Urban	Rural	Remote	All areas	Urban	Major rural	Minor rural	Remote	All areas
iiNet	%	98.3	97.8	100	100	95.6	98.7	98.5	100	94.8
	No.	48,953	8,918	43	36,545	37,109	3,517	1,659	46	16,553
Optus	%	96.2	95.8	NQCSP	99.2	98	99.4	99.4	NQCSP	n/a
	No.	151,391	1,169	NQCSP	202,050	304,374	3,160	1,246	NQCSP	n/a
Dodo	%	100	100	NQCSP	100	100	100	100	NQCSP	100
	No.	46,986	11,667	NQCSP	137,461	18,090	1,359	985	NQCSP	58,309
Telstra	%	93.3	92.1	92.5	96.2	94.4	95	94.1	92.6	96.6
	No.	385,547	128,627	2,229	488,122	223,538	23,062	11,517	622	199,817

Notes: NQCSP = not a qualifying CSP; Source: ACMA Communications Report, 2016/2017

Table 9: Estimated volume of connections, fault repairs and appointments outside the maximum CSG timeframes, 2016/17⁹

		Fault repairs			Appointments	New service connections				In-place service
		Urban	Rural	Remote	All areas	Urban	Major rural	Minor rural	Remote	All areas
iiNet	%	1.7	2.2	0	0	4.4	1.3	1.5	0	5.2
	No.	847	201	0	0	1,708	46	25	0	908
Optus	%	3.8	4.2	NQCSP	0.8	2	0.6	0.6	NQCSP	n/a
	No.	5,980	51	NQCSP	1,629	6,212	19	8	NQCSP	n/a
Dodo	%	0	0	NQCSP	0	0	0	0	NQCSP	0
	No.	0	0	NQCSP	0	0	0	0	NQCSP	0
Telstra	%	6.7	7.9	7.5	3.8	5.6	5	5.9	7.4	3.4
	No.	27,687	11,033	181	19,281	13,261	1,214	722	50	7,033

Notes: NQCSP = not a qualifying CSP; Source: ACMA Communications Report, 2016/2017

⁹ Calculated using the inverse of the percentages and volumes from Table 8.

Accordingly, detailed industry data should be provided on a monthly basis to the ACMA. Further, the ACMA should conduct a review to determine appropriate performance targets in consultation with the ACCC.

ACCAN believes the following metrics should be reported to the ACMA on a monthly basis:

Customer service guarantee metrics:

- Connections completed on time, by technology and area
- Number of delayed connections, by technology and area, and duration of delays
- Payments for missed appointments
- Number of faults repaired on time by technology and geography/area
- Number of faults not repaired on time, by technology and area
- Number and quantum of payments for delayed connections and delayed fault repairs

Reliability metrics:

- Duration of outages by technology
- Number of times a customer's supply is interrupted;
- Duration of each interruption to supply;
- Distribution of interruptions by duration (such that the time it takes to repair is known as well as the quantity of repairs performed in that timeframe);
- Number of momentary interruptions per customer

Recommendation 10: Industry data for ACMA reporting

- a) Providers report reliability data as identified by ACCAN on a monthly basis to the ACMA.
- b) The ACMA conduct a review in consultation with the ACCC to determine appropriate performance targets.

4.5. Frequency of ACMA reporting

The Department has asked:

“How often should the ACMA publish reports and analysis (for example, monthly, quarterly or half yearly)?”

ACCAN believes that quarterly reporting is required to provide sufficient oversight.

Recommendation 11: ACMA publish reliability reports quarterly.

5. General issues for comment

5.1. Adequacy of proposals

The Department has asked:

“Do the proposals in this paper address the major issues of concern with the current framework for reliability of services? If not, what additional measures could be included?”

The Department’s proposals address some of the major issues of concern with the current framework for reliability of services. Specifically, the proposals provide consumer protections for broadband and voice services offered by all providers with public reporting of compliance.

However, a key pillar of ACCAN’s policy position “A Guarantee for the Future” is the relationship between wholesale pricing and service quality. The proposal to introduce significant obligations on network infrastructure providers will inevitably impose costs on wholesale providers. Wholesale providers thus need to have the ability to recover those costs or will risk non-compliance. It is in the long term interests of end users for providers to recover the reasonable costs of providing reliable services. These compliance costs need to be considered as part of the broader wholesale pricing regime to ensure balanced and appropriate cost recovery and minimise the harm to consumers.

ACCAN is aware of the ACCC’s review of NBN service standards and is participating in that consultation. It is imperative that the pricing framework take account of government and regulatory policy. Thus the ACCC should have the ability to set prices for the NBN by taking into account government objectives and policy.

Recommendation 12: Enable the ACCC to determine wholesale pricing with commercial agreements superseding only by exception and approval by the ACCC.
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5.2. Unintended consequences of the proposals

The Department has asked:

“Are there any unforeseen issues or unintended consequences of the proposals?”

ACCAN does not foresee any issues or unintended consequences of the proposals at this time, subject to our recommendations.

5.3. Implementation

The Department stated that its proposals would commence after the forecast completion of the NBN rollout in 2020. It has asked:

“What considerations should be taken into account in implementing the proposals outlined in this paper (based on forecast completion of the NBN rollout by 2020), including practical timeframes for implementation?”

ACCAN encourages the Department to consider implementing the proposals prior to the forecast completion of the NBN rollout. It is necessary and feasible for new rules to be in place by the end of 2019.

In December 2017, the ACMA announced that it would make new rules to improve customer experiences migrating to the NBN. It stated that its analysis for the three months to 30 June 2017 showed that:¹⁰

- 55.7 per cent of all network-related complaints were about service quality (faults and speed);
- A further 44.3 per cent of network related complaints were about connection issues;
- On average, complaints about faults took up to 19 calendar days to resolve, whereas complaints about connection issues took up to 28 calendar days to resolve; and
- On average, it took up to 45 calendar days for customers to have their old voice and data services moved across the network.

The ACMA consulted on the detail of the instruments and the new rules came into force in September 2018 – less than one year from the initial announcement. The new rules address the handling of complaints, information provided to customers and migrating to the NBN. Thus, the underlying network issues related to the first three of the points above were not addressed in the ACMA new rules and standards. This is the gap being addressed with this review.

There is a pressing need for reform as service outages and delays in connections and repairs continue to drive consumer complaints. The case below highlights the lack of consumer protections that can leave consumers without services, and the pressing need for widespread reforms, including the passage of legislative reforms to create a new universal service broadband guarantee.

Box 7: Case study - new development delayed connection, no reliable alternative service available

In early March 2017 a group of residents in a new development in Victoria (Belmond on Clyde) contacted ACCAN about delayed connection to the NBN. The residents were told that when they moved in during November 2016 that the NBN would be available from December 2016. The December 2016 timeframe was then delayed and ACCAN raised the issue with nbn Co.

There was no mobile coverage in the area. The lack of connection was very concerning for residents as some of them were running small businesses and there were elderly residents who were candidates for priority assistance. The nbn address check online in March 2017 showed that the area

¹⁰ ACMA, Media Release, “ACMA imposes new rules to better protect consumers migrating to the NBN”, 21 December 2017.

was due for connection in July –December 2018.

The only protection available for the consumers was the USO, which meant the consumers needed to order fixed line voice services with Telstra to trigger the obligation to connect them. There is still no corresponding obligation to provide the internet.

Following a community meeting hosted by a local MP in mid-March, Telstra offered a satellite phone for the same price as a fixed line connection. However, we understand that at least two residents returned the satellite phones as calls didn't come through and sound quality was bad, so they didn't want to pay \$25 a month for an unusable service.¹¹

The nbn was scheduled to be available in May to the residents. However, nbn managed to find a solution to connect customers using a nearby estate's connection until the permanent one was complete.

The residents had neither fixed connections nor reliable telecommunications services for nearly 5 months.

Telecommunications are essential services and consumers view them in the same way they view other utilities. There has been inadequate regulation in telecommunications for far too long and it is entirely feasible for the ACMA to develop and implement rules to address service quality to be in place by the end of 2019.

Recommendation 13: ACMA develop rules and standards to implement consumer safeguards for reliability with effect by 31 December 2019.

5.4. Other issues

The Department has also asked:

“Are there any other issues that should be brought to the Government’s attention?”

The current Customer Service Guarantee enables service providers to identify mass service disruptions for exemptions from the mandatory timeframes. ACCAN recognises that there will be times when extreme-weather or natural disasters will require additional time to connect and repair services. Thus, it is reasonable for providers to be exempt from the mandatory timeframes in such circumstances.

However, ACCAN believes that it is necessary for there to be oversight in determining what circumstances there are exemptions to prevent abuse. The exemptions should be on an application

¹¹ Battersby, Lucy, “NBN finally steps in to save stranded Belmond estate after safety nets fail”, *Sydney Morning Herald*, 28 March 2017.

basis and should only apply to the areas affected by the event. It is unacceptable for consumers in an unaffected area to be affected by extreme weather in another area.

Exemptions should enable providers to exclude extreme weather events from the calculation of performance benchmarks but not consumer compensation. That is, customers should receive compensation based on the mandatory timeframes but a provider's performance and penalties are excluded.

Recommendation 14: Consumer safeguards include mass service disruption exemptions from affecting performance benchmarks and penalties on application only for affected areas. Exemptions should not apply to consumer compensation.