



Implementation of consumer safeguards for optional backup power supply arrangements

Submission by ACCAN to the ACMA

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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 availability, accessibility and affordability of communications services for all Australians.

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 activate its broad and diverse membership base to campaign to get a better deal for all communications consumers.

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Background of the issue

The ACMA has properly characterised the background and context of the issue in Section 2 of the paper. We agree that Priority Assistance customers should always receive backup power supply. We make our comments below with other categories of vulnerable consumers in mind, particularly those consumers, disproportionately older, for whom the fixed-line telephone remains their main communication service and those who are using alarms and other similar devices.¹

Scale of the issue

Both the 2012 and 2013 ACCAN National Consumer Perceptions Survey contained the following question: *Thinking of the fixed line phones that you've got at home, have you got one that does NOT need to be plugged into a power point?*

In 2013, 59% of respondents answered no, indicating that they were already in a position of not having a functional fixed-line phone handset in the event of a main power failure.² Given the ubiquity of mobile phones, this figure is not regarded by ACCAN as a cause for concern.

However as the mains power-dependent NBN equipment is being introduced in the context of a compulsory migration of services not initiated by the consumer, with implications for what is an essential service for some, it is appropriate that regulatory steps be taken to ensure the right information is being provided consistently to consumers as soon as possible.

Determination is required

ACCAN is of the view that a Determination is an appropriate mechanism for achieving informed consent on backup power supply but that the mandated information should be reduced and simplified allowing CSPs to create more consumer-friendly messaging (see proposed changes below).

Given the potentially serious impacts on some categories of consumers, ACCAN does not favour amending industry codes, which would take additional time and be difficult to enforce, or other “watch and wait” approaches.

As the submission from NBN Co correctly notes, in the absence of regulation, CSPs would be capable of creating their own informed consent process, but differing CSP approaches would not necessarily address the policy aim of minimising consumer detriment and preventing serious risks to life and property. If the best outcome can be achieved prior to costly mistakes, this will ultimately be in the interests of industry and consumers alike.

¹ ACCAN Consumer Perceptions Survey 2013, p.20. <http://accan.org.au/our-work/research/678-accan-2013-national-survey>

² ACCAN Survey 2013, p.30.

The requirement for records to be kept on consumer decisions is appropriate. ACCAN's *Informed Consent* report in 2009³ identified recording of consent as a key recommendation and it has clear benefits in preventing and resolving disputes.

As compulsory disconnections from the copper network will begin in May 2014, regulatory action should be undertaken as soon as possible.

Arguments on adequacy of existing laws and Codes

The industry argument that there is no current industry failure and therefore regulatory intervention is unnecessary misses the novelty of the risk that is involved in this aspect of the transition to the NBN.

Until now, some consumers by choice have acquired equipment reliant on mains power. Now as a result of the transition to the NBN, a whole new group of consumers is being forced without choice onto a new type of fixed-line service which will be reliant on mains power. This new group of consumers includes consumers who will be at high risk in the event of a mains power outage because they don't use mobile phones, are old, have disabilities, are reliant on medical alarms and a range of other circumstances.

Even if this group of consumers constitutes a small percentage of households, the risk to life and health is potentially serious and justifies the proposed regulation to ensure consumers are making their decision armed with the best information.

ACCAN does not believe the Australian Consumer Law (ACL) or existing or potentially amended Industry Codes can be regarded as requiring the specific information provision on backup power supply that we consider to be essential. General obligations to provide accurate information on products and services and their limitations cannot with certainty be regarded as applying to every hypothetical contingency such as occasions of mains power failures. The ACL and Industry Codes do not require CSPs to provide the specific information elements that we believe should be consistently provided to all consumers prior to exercising choice on backup power.

Draft Service Provider Determination: concerns re comprehensibility and information overload

It is important for the ACMA to take into account the research showing that choices are made difficult by confusion and information overload.⁴ More information does not lead automatically to better consumer decision-making.

³ Informed Consent Research Report, ACCAN, 2009. http://accan.org.au/files/Reports/ACCAN_Informed_Consent.pdf; Seeking Straight Answers: Consumer Decision-Making in Telecommunications, Deakin University and ACCAN, 2011. <http://accan.org.au/files/Reports/Seeking%20Straight%20Answers%20Report.pdf>

⁴ For example, '[Review of Consumer Information Remedies](#)', Ofcom, 2013; 'Warning: Too much information can harm: report by the Better Regulation Executive and National Consumer Council on maximising the positive impact of regulated information for consumers and markets', 2007.

The concern ACCAN has with the proposed wording of Schedule 1 of the Determination is that it will result in a lengthy piece of fine print that will be read out or presented either in hard copy or on a screen which the vast majority of consumers will be hard-pressed to understand, particularly at a time when a consumer may already be forced to make a number of other potentially stressful decisions such as where the NBN box will be located and what service is the right one for them.

As a consequence, we would propose that the requirements in Schedule 1 be reduced as per our suggestions and re-ordering below to around five key points and for these mandated points to be less prescriptive. It is appropriate for CSPs to design the information in a way that they believe their customers can understand, provided the five key points are covered.

It is our view that the information that we propose for deletion is sufficiently obvious or is repetitive. Including detailed, legalistic, repetitive or obvious information dilutes the key points and adds to confusion, making a choice harder, not easier to make.

A desirable outcome in our view would be for the basic information elements to be presented in whatever manner the CSP sees fit, preferably limited to a single page or equivalent with space for graphics and in plain English.

ACCAN PROPOSED CHANGES

Schedule 1

Information to be given to customers other than priority assistance customers

The carriage service provider must give the following information to the customer in relation to the specified carriage service in a manner which is clear, concise and effective:

- (1) the service cannot be supplied during a mains power failure unless there is battery backup or another source of power to enable the continued supply of the service (***backup power for the service***);
- (2) customers (~~other than priority assistance customers and customers who will otherwise have backup power for the service~~) are given the option to decide whether they want backup power for the service;
- (3) an estimate of how long backup power for the service would enable the continued supply of the service during a mains power failure
- (4) ~~if there is no backup power for the service, an end-user of the service will not be able to access the standard telephone service or the internet (as the case may be) during a mains power failure;~~
- (5) ~~in order to use the service to make telephone calls during a mains power failure, the customer will need:~~

~~(a) backup power for the service; and~~

~~(b) a telephone that:~~

~~(i) does not require mains power to operate (such as a corded telephone);
or~~

~~(ii) has battery backup or another source of power to enable the continued operation of the telephone.~~

~~(6) in order to use the service to access the internet or for other purposes (such as to support a medical or security alarm) during a mains power failure, the customer will need:~~

~~(a) backup power for the service; and~~

~~(b) customer equipment that:~~

~~(i) does not require mains power to operate; or~~

~~(ii) has battery backup or another source of power to enable the continued operation of the equipment;~~

~~(7) what equipment would be needed, and where it would be installed, for the supply of backup power for the service~~

~~(including whether a BPSU would be required to be installed at the customer's premises);~~

~~what would be required to maintain the equipment, including any requirements to replace the equipment; and~~

~~an estimate of how long backup power for the service would enable the continued supply of the service during a mains power failure, and the factors that could have an impact on that estimate.~~

~~(8) if a customer wants backup power for the service, it is recommended that the customer obtain advice from the supplier of any customer equipment to be used in connection with the service in terms of what is required to enable the continued operation of the equipment during a mains power failure;~~

~~(9) if a customer does not want backup power for the service, it is recommended that the customer have another means by which the customer can make emergency telephone calls during a mains power failure (such as a mobile telephone); and~~

~~(10) the customer may contact the carriage service provider:~~

~~(a) for further information about backup power for the service; or~~

~~(b) to request the supply or discontinuation of backup power for the service.~~