

Commonwealth of Australia

Telecommunications (Consumer Protection and Service Standards) Act 1999

**Telecommunications (Customer Service Guarantee –
Retail Performance Benchmarks) Instrument
(No. 1) 2011**

I, STEPHEN MICHAEL CONROY, Minister for Broadband, Communications and the Digital Economy, make the following instrument under subsection 117B(1) of the *Telecommunications (Consumer Protection and Service Standards) Act 1999*.

Dated 22 July 2011

STEPHEN CONROY
Minister for Broadband, Communications and the Digital Economy

Part 1 Preliminary

1 Name of instrument

This Instrument is the *Telecommunications (Customer Service Guarantee – Retail Performance Benchmarks) Instrument (No. 1) 2011*.

2 Commencement

This Instrument commences on 1 October 2011.

3 Definitions

(1) In this Instrument, unless the contrary intention appears:

Act means the *Telecommunications (Consumer Protection and Service Standards) Act 1999*.

appointment-keeping performance standard has the meaning given by subsection 8(1) of this Instrument.

connection period performance standard has the meaning given by subsection 6(1) of this Instrument.

CSG Standard means the *Telecommunications (Customer Service Guarantee) Standard 2011*, as in force from time to time.

in-place connection request means a request made by a customer to a carriage service provider for connection to a CSG service where the carriage service provider is required to comply with the request in the guaranteed maximum connection period at item 201 of Schedule 1 to the CSG Standard.

major rural area means an urban centre or other recognised community grouping with a population greater than 2,500 but less than 10,000 people.

minor rural area means an urban centre, locality or other recognised community grouping with a population of greater than 200 but not more than 2,500 people.

new connection request refers to a request made by a customer to a carriage service provider for connection to a CSG service where the carriage service provider is required to comply with the request in the guaranteed maximum connection period at item 202 of Schedule 1 to the CSG Standard.

qualifying carriage service provider has the meaning given by section 4 of this Instrument.

rectification period performance standard has the meaning given by subsection 7(1) of this Instrument.

remote area means a geographic area which is not an urban area, major rural area or minor rural area.

rural area means an area that is either a major rural area or a minor rural area.

urban area means an urban centre with a population equal to or greater than 10,000 people.

- (2) Unless the contrary intention appears, expressions used in this Instrument and in the CSG Standard have the same meaning in this Instrument as in the CSG Standard.
- (3) For the purposes of this Instrument, a ***benchmark period*** is:
 - (a) the period from the commencement of this Instrument until the end of the financial year during which this Instrument commences; and
 - (b) each later financial year.

Note 1 A number of words and expressions used in this Instrument have the meaning given by the *Telecommunications Act 1997*, including:

- carriage service provider
- wholesale carriage service
- wholesale customer

4 Qualifying carriage service providers

A carriage service provider is a ***qualifying carriage service provider*** for a benchmark period if, on the last day of the financial year preceding that

benchmark period, the carriage service provider supplied 100,000 CSG services or more where the carriage service provider was obliged to comply with any one or more of the performance standards in respect of the carriage service provider's supply of those CSG services.

5 Location-specific thresholds

- (1) For the purposes of this Instrument, a qualifying carriage service provider for a benchmark period meets the urban area services threshold for that benchmark period if, on the last day of the financial year preceding that benchmark period, the carriage service provider supplied 10,000 CSG services or more in urban areas where the carriage service provider was obliged to comply with any one or more of the performance standards in respect of the carriage service provider's supply of those CSG services.
- (2) For the purposes of this Instrument, a qualifying carriage service provider for a benchmark period meets the major rural area services threshold for a benchmark period if, on the last day of the financial year preceding that benchmark period, the carriage service provider supplied 1000 CSG services or more in major rural areas where the carriage service provider was obliged to comply with any one or more of the performance standards in respect of the carriage service provider's supply of those CSG services.
- (3) For the purposes of this Instrument, a qualifying carriage service provider for a benchmark period meets the minor rural area services threshold for that benchmark period if, on the last day of the financial year preceding that benchmark period, the carriage service provider supplied 1000 CSG services or more in minor rural areas where the carriage service provider was obliged to comply with any one or more of the performance standards in respect of the carriage service provider's supply of those CSG services.
- (4) For the purposes of this Instrument, a qualifying carriage service provider for a benchmark period meets the rural area services threshold for that benchmark period if, on the last day of the financial year preceding that benchmark period, the carriage service provider supplied 1000 CSG services or more in rural areas where the carriage service provider was obliged to comply with any one or more of the performance standards in respect of the carriage service provider's supply of those CSG services.
- (5) For the purposes of this Instrument, a qualifying carriage service provider for a benchmark period meets the remote area services threshold for that benchmark period if, on the last day of the financial year preceding that benchmark period, the carriage service provider supplied 500 CSG services or more in remote areas where the carriage service provider was obliged to

comply with any one or more of the performance standards in respect of the carriage service provider's supply of those CSG services.

Part 2 Retail Performance Benchmarks

Note 1 Under subsection 115(2A) of the Act the CSG Standard does not apply in relation to a matter concerning the supply, or proposed supply, of a wholesale carriage service. As a consequence, this Instrument does not apply to a carriage service provider to the extent that the provider supplies, or proposes to supply, a wholesale carriage service to a wholesale customer.

Note 2 The benchmarks in this Instrument only apply in relation to compliance with a performance standard to the extent that a carriage service provider is required to comply with a performance standard under the CSG Standard.

Division 1 Performance benchmarks

6 Performance benchmarks for connection period performance standard

- (1) Each of the benchmarks at subsections (2) and (3) are minimum benchmarks for the purposes of section 117B of the Act in relation to compliance by carriage service providers with the standard at subsection 8(3) of the CSG Standard (*connection period performance standard*).
- (2) A qualifying carriage service provider must comply with the connection period performance standard in respect of at least 90 percent of the total number of in-place connection requests that:
 - (a) are subject to the connection period performance standard; and
 - (b) are required to be complied with by the carriage service provider during a benchmark period.
- (3) A qualifying carriage service provider must comply with the connection period performance standard in respect of at least 90 percent of:
 - (a) if the carriage service provider meets the urban area services threshold for a benchmark period—the total number of new connection requests from customers in urban areas that:
 - (i) are subject to the connection period performance standard; and
 - (ii) are required to be complied with by the carriage service provider during the benchmark period; and

- (b) if the carriage service provider meets the major rural area services threshold for a benchmark period—the total number of new connection requests from customers in major rural areas that:
 - (i) are subject to the connection period performance standard; and
 - (ii) are required to be complied with by the carriage service provider during the benchmark period; and
- (c) if the carriage service provider meets the minor rural area services threshold for a benchmark period—the total number of new connection requests from customers in minor rural areas that:
 - (i) are subject to the connection period performance standard; and
 - (ii) are required to be complied with by the carriage service provider during the benchmark period; and
- (d) if the carriage service provider meets the remote area services threshold for a benchmark period—the total number of new connection requests from customers in remote areas that:
 - (i) are subject to the connection period performance standard; and
 - (ii) are required to be complied with by the carriage service provider during the benchmark period

7 Minimum benchmarks for rectification period performance standard

- (1) Each of the benchmarks at subsection (2) are minimum benchmarks for the purposes of section 117B of the Act in relation to compliance by carriage service providers with the standard at subsection 11(5) of the CSG Standard (*rectification period performance standard*).
- (2) Subject to subsection (3), a qualifying carriage service provider must comply with the rectification period performance standard in respect of at least 90 percent of:
 - (a) if the carriage service provider meets the urban area services threshold for a benchmark period—the total number of faults or

service difficulties reported by customers located in an urban area that:

- (i) are subject to the rectification period performance standard; and
 - (ii) are required to be rectified by the carriage service provider in the benchmark period; and
 - (b) if the carriage service provider meets the rural area services threshold for a benchmark period—the total number of faults or service difficulties reported by customers located in a rural area that:
 - (i) are subject to the rectification period performance standard; and
 - (ii) are required to be rectified by the carriage service provider in the benchmark period; and
 - (c) if the carriage service provider meets the remote area services threshold for a benchmark period—the total number of faults or service difficulties reported by customers located in a remote area that:
 - (i) are subject to the rectification period performance standard; and
 - (ii) are required to be rectified by the carriage service provider in the benchmark period.
- (3) In assessing compliance with the rectification period performance standard at subsections (2)(a) to (c), faults or service difficulties relating to an inoperative enhanced call handling feature on services that include an enhanced call handling feature are to be excluded from calculations required to be undertaken of the total number of faults or service difficulties reported by customers in either an urban, rural or remote area.

Note In calculating a carriage service provider's compliance with the rectification period performance standard under this section it is not necessary to include a fault or service difficulty relating to an inoperative enhanced call handling feature as referred to in paragraph (f) of the definition of fault or service difficulty at section 4 of the CSG Standard.

8 Performance benchmark for appointment-keeping performance standard

- (1) The benchmark at subsection (2) is a minimum benchmark for the purposes of section 117B of the Act in relation to compliance by carriage service

providers with the standard at subsection 16(5) of the CSG Standard (*appointment-keeping performance standard*).

- (2) A qualifying carriage service provider must comply with the appointment-keeping performance standard in respect of at least 90 percent of the total number of appointments to which the carriage service provider is a party that:
- (a) are subject to the appointment-keeping performance standard;
and
 - (b) are required to be kept by the carriage service provider during a benchmark period.

Division 2 Compliance with performance benchmarks

9 Contravention of a performance benchmark

Each instance of a carriage service provider failing to meet or exceed any one of the performance benchmarks in sections 6, 7 or 8 constitutes a separate contravention of the relevant performance benchmark.