

EXPLANATORY STATEMENT

Approved by the Australian Communications and Media Authority

Telecommunications Act 1997

Telecommunications (Consumer Complaints Handling) Industry Standard 2018

Authority

The Australian Communications and Media Authority (the **ACMA**) has determined the *Telecommunications (Consumer Complaints Handling) Industry Standard 2018* (the **Standard**) under subsection 125AA(1) of the *Telecommunications Act 1997* (the **Act**) in accordance with sections 5 and 8 of the *Telecommunications (NBN Consumer Experience Industry Standard) Direction 2017* (the **Direction**).

The Minister of Communications and the Arts (the **Minister**) has the power under subsection 125AA(4) of the Act to direct the ACMA to:

- (a) determine a standard under subsection 125AA(1) of the Act that:
 - (i) applies to participants in a specified section of the telecommunication industry;
 - (ii) deals with one or more specified matters relating to the activities of those participants; and
- (b) do so within in a specified period.

The Direction was given to the ACMA by the Minister under subsection 125AA(4) of the Act and commenced on 23 December 2017.

Subsection 5(1) of the Direction directs the ACMA to determine an industry standard under subsection 125AA(1) of the Act that complies with Divisions 2, 3 and 4 of Part 2 of the Direction. Relevantly, section 8 of the Direction requires the ACMA to determine an industry standard regarding the handling of consumer complaints.

Subsection 125AA(5) of the Act provides that the ACMA must determine a standard under subsection 125AA(1) in accordance with a direction under subsection 125AA(4). The Standard meets the requirements in sections 5 and 8 of the Direction and commences on 1 July 2018.

Purpose and operation of the Standard

Background

Industry rules on complaints handling for carriers and carriage service providers (**CSPs**) have been in place since the *Telecommunications Consumer Protections Code* (the **TCP Code**) was first registered by the ACMA in 2007. While Chapter 8¹ of the TCP Code sets out the requirements for managing, monitoring, analysing, recording and reporting complaints by carriers and CSPs, gaps in such processes have been identified. In addition, the volume of complaints and extended resolution times indicate that the current rules are not meeting

¹ Developed in line with the Australian/New Zealand Standard for Complaint Handling (AS/NZS 10002:2006 Australian Standard – Complaint Handling).

community expectations across many areas, but particularly during the transition to the National Broadband Network (the **NBN**).²

Requirements in the Direction

The Explanatory Statement to the Direction states that Division 4 of Part 2 of the Direction (section 8) sets out matters to be dealt with by the industry standard to:

address persistent flaws in complaints handling processes, particularly around provision of information on timeframes for resolution of issues with retail services, and the provision of assistance with resolving complaints by wholesale carriage service providers to retail carriage service providers (see page 2).

Subsection 8(1) of the Direction provides that the ACMA must determine an industry standard that:

- (a) applies to:
 - (i) CSPs;
 - (ii) carriers responsible for network units that are used in the supply of services; and
- (b) deals with the handling of consumer complaints about the supply of services by those persons in a professional, effective and efficient manner.

Paragraphs 8(2)(a) to (c) of the Direction set out a range of requirements that the Standard must contain including:

- (a) requirements for CSPs to establish a consumer complaints handling process, including minimum requirements for timeliness, accessibility, and transparency of that process;
- (b) a requirement that a consumer complaint handling process established must be free of charge for consumers; and
- (c) requirements for carriage service providers to manage, monitor, analyse, and record consumer complaints, including requirements for response times for steps in the consumer complaints handling process to be completed.

Paragraphs 8(2)(d) and (e) of the Direction set out requirements for certain carriers and CSPs to give reasonable assistance to retail carriage service providers and other CSPs involved directly or indirectly in the supply of a retail carriage service, in the management and resolution of complaints.

Operation of the Standard

In compliance with subsections 8(1) and (2) of the Direction, the Standard sets out a regulatory framework for CSPs to ensure that consumer complaints are handled in a professional, effective and efficient manner.

Part 2 of the Standard imposes requirements on CSPs to establish a complaints handling process that includes minimum requirements for complaints handling relating to accessibility, timeliness, transparency and to comply with those requirements.

² See ACMA 'Migrating to the National Broadband Network – the consumer experience: Key findings from analysis of industry information' December 2017 & ACMA 'NBN consumer experience – residential research snapshot' March 2018

Among other things, section 8 of the Standard requires that the complaints handling process must: be in writing; made available to the public from the CSP's website; be free of charge for consumers to use; set out how and when a consumer can make a complaint; set out the potential sequence in the process for managing a complaint that cannot be resolved at first instance; and ensure that a CSP's personnel understand the minimum requirements for complaints handling.

Part 3 of the Standard imposes requirements on CSPs regarding the management of complaints and response times. Section 12 of the Standard requires that CSPs acknowledge complaints within specified timeframes. Section 13 of the Standard sets out a range of steps and timeframes that CSPs must comply with when resolving complaints. Section 14 of the Standard imposes requirements to advise consumers about delays to proposed timeframes for managing complaints. Section 15 of the Standard sets out requirements relating to the prioritisation and escalation of complaints, and imposes relevant timeframes for communicating to consumers. Section 16 contains procedures for dealing with frivolous and vexatious complaints.

Part 4 of the Standard contains provisions requiring CSPs to establish processes, procedures and systems for monitoring and analysing their complaints records to attempt to identify systemic issues and problems and prevent them from recurring. Part 5 of the Standard sets out requirements for CSPs to keep systematic records of complaints for at least two years. It is a matter for a CSP to determine how best to keep systematic records of complaints so that it complies with each of the requirements in section 20 of the Standard.

Part 6 of the Standard imposes requirements on CSPs and carriers to provide reasonable assistance to retail carriage service providers (**RCSPs**) and keep records demonstrating compliance with Part 6, to ensure upstream providers (such as NBN Co Limited), and other intermediaries provide reasonable assistance to RCSPs and the Telecommunications Industry Ombudsman (the **TIO**) to resolve consumer complaints. Section 25 imposes requirements on an RCSP regarding any request it makes for reasonable assistance under Part 6. Upon receiving a request for reasonable assistance from a RCSP under section 25 of the Standard, a CSP or a carrier will need to determine what role it has in the supply of the relevant retail carriage services, and what, if any, assistance is reasonable in the circumstances.

Part 7 of the Standard sets out the transitional arrangements for complaints that were made prior to the commencement of the Standard and remain unresolved at the date of commencement of the Standard.

A provision-by-provision description of the Standard is set out in the notes at **Attachment A**. The Standard is a disallowable legislative instrument for the purposes of the *Legislation Act 2003* (the **LA**).

Documents incorporated by reference

The Standard incorporates the following Acts and legislative instruments (including by the adoption of definitions), or otherwise refers to them:

- the Act;
- the *Telecommunications (Customer Service Guarantee) Standard 2011*;
- the *Broadcasting Services Act 1992*;

- the *Telecommunications (Consumer Protection and Service Standards) Act 1999*;
- the *Acts Interpretation Act 1901* (the **AIA**);
- the LA; and
- the *Privacy Act 1988*.

The Acts and legislative instruments listed above may be obtained from the Federal Register of Legislation (<http://www.legislation.gov.au>). The Acts listed above are incorporated as in force from time to time, in accordance with section 10 of the AIA, subsection 13(1) of the LA and section 589 of the Act. The legislative instruments listed above are incorporated as in force from time to time, in accordance with section 6 of the Standard and subsection 14(1) of the LA and section 589 of the Act.

Consultation

Before the Standard was made, the ACMA was satisfied that consultation was undertaken to the extent appropriate and reasonably practicable, in accordance with section 17 of the LA and consistent with the requirements in subsection 125AA(3) of the Act.

The ACMA consulted with Communications Alliance (being a body that represents the telecommunications industry) industry stakeholders, consumer groups, the TIO and the public on the making of the Standard. Between 15 March and 16 April 2018, the ACMA conducted a public consultation process inviting submissions on the proposed changes through the release of a draft Standard and a consultation paper on the ACMA's website.

Stakeholders directly affected by the proposal were notified of the release of the consultation paper and invited to comment. The ACMA received 13 submissions in response to the consultation paper. The ACMA considered all relevant issues raised by the submissions when making the Standard.

Regulatory impact assessment

A Regulation Impact Statement (**RIS**) was prepared for the Direction (OBPR Reference Number: 23048) and which applies to the measures in the Standard and other standards to be made in accordance with the Direction. As stated in the Explanatory Statement to the Direction:

The RIS considered options for targeted regulatory measures to improve the NBN consumer experience.

The RIS concluded that the regulatory impacts of this instrument are on business providing retail telecommunications services over the NBN, NBN Co Limited, and other suppliers in the NBN supply chain. The average annual regulatory costs to these businesses were estimated to be \$1.49 million. There are no regulatory impacts on community organisations or individuals.

Statement of compatibility with human rights

Subsection 9(1) of the *Human Rights (Parliamentary Scrutiny) Act 2011* requires the rule-maker in relation to a legislative instrument to which section 42 (disallowance) of the LA applies to cause a statement of compatibility to be prepared in respect of that legislative instrument.

The statement of compatibility set out in **Attachment B** has been prepared to meet that requirement.

Notes to the *Telecommunications (Consumer Complaints Handling) Industry Standard 2018*

Part 1–Preliminary

Section 1 Name

This section provides that the name of the Standard is the *Telecommunications (Consumer Complaints Handling) Industry Standard 2018* (the **Standard**).

Section 2 Commencement

This section states that the Standard commences on 1 July 2018.

Section 3 Authority

This section provides that the Standard is determined under subsection 125AA(1) of the *Telecommunications Act 1997* (the **Act**) and in accordance with sections 5 and 8 of the *Telecommunications (NBN Consumer Experience Industry Standard) Direction 2017*.

Section 4 Application of industry standard

This section provides, for the purpose of subsection 125AA(1) of the Act, that:

- the Standard applies to participants in the following sections of the telecommunications industry:
 - carriage service providers (**CSPs**); and
 - carriers responsible for network units that are used in the supply of services by carriage service providers; and
- the subject matter of the Standard deals with the handling of consumer complaints about the supply of carriage services by those carriage service providers and carriers in a professional, effective and efficient manner, and reporting about consumer complaints.

Section 5 Definitions

This section defines a number of key terms used throughout the Standard and notes that a number of other expressions used in the Standard are defined in the Act.

Section 6 References to other instruments

This section provides that in the Standard, unless the contrary intention appears, a reference to any other legislative instrument is a reference to that other legislative instrument as in force from time to time.

Part 2– Complaints handling process

Section 7 Establish a complaints handling process

This section imposes requirements on a CSP to establish a complaints handling process for dealing with consumer complaints that complies with the minimum requirements for consumer complaints handling under sections 8, 9 and 10, and to comply with that process.

Subsection (2) requires that the complaints handling process be approved by the CSP's Chief Executive Officer (or equivalent), who is also to be responsible for its implementation and operation.

Section 8 Minimum requirements - accessibility

This section sets out the minimum requirements that a CSP's complaints handling process must meet regarding consumer accessibility to the complaints handling process.

Subsection 8(1) sets out a number of requirements which are intended to ensure that a CSP's complaints handling process is accessible for all consumers. This section requires a CSP's complaints handling process be free charge for consumers, easy to understand and use, and for it to be made available to the public on the CSP's website. It also requires a CSP's complaint handling process to clearly set out each potential step in the process of managing complaints. The extent to which each of these steps will need to be followed will be dependent on how promptly the complaint is resolved.

Subsection 8(2) provides that personnel dealing directly with consumers who are making a complaint, must be given access to a copy of the CSP's complaints handling process and understand the minimum requirements for consumer complaints handling and their roles and responsibilities under the complaint handling process.

Subsection 8(3) requires a CSP to ensure that information about how a consumer can make a complaint or enquiry can be accessed via a link on the homepage for its website.

Section 9 Minimum requirements - timeliness

This section provides that a complaints handling process must identify the relevant time periods associated with each step in the complaints handling process, including the response times for managing a complaint set out in sections 12, 13, 14, 15, 16 and 17.

Section 10 Minimum requirements - transparency

This section provides that a CSP's complaints handling process must be clear, accessible and transparent to consumers. The section requires a CSP to have an internal process for when a consumer requests their complaint to be escalated and to set out a description of that process. A CSP's complaint handling process must also set out a dispute resolution process, which provides a consumer with the right to escalate a complaint to the Telecommunications Industry Ombudsman (**the TIO**), and also include a process for classifying complaints into clearly described categories of complaint.

Part 3– Complaints management and response times

Section 11 Complaints management

This section sets out requirements that a CSP must comply with in relation complaints management. A CSP must ensure that its complaints handling process is managed by a senior manager, who is required to maintain the effective and efficient operation of that process in

Explanatory Statement to the Telecommunications (Consumer Complaints Handling) Industry Standard 2018

accordance with the minimum requirements for consumer complaints handling. Section 11 also requires a CSP to ensure that its personnel dealing directly with consumers can identify, classify and record a complaint, manage and resolve complaints in an effective and efficient manner, and treat consumers making a complaint with fairness and courtesy.

Section 12 Acknowledging complaints

This section imposes requirements on a CSP in relation to acknowledging complaints immediately when received by telephone or in store, and within 2 working days when received by email, via the CSP's website, post or by leaving a recorded telephone message.

Section 13 Resolution of complaints

This section sets out the requirements that apply to a CSP in the resolution of complaints. The processes that must be put in place vary depending on whether the consumer has lodged a complaint or an urgent complaint. Section 13 requires a CSP to take steps to investigate, manage and resolve consumer complaints and urgent complaints.

This section provides that once a consumer has notified a CSP that they wish to make a complaint, the CSP must investigate the complaint to the extent that is commensurate with the seriousness of the complaint and use its best efforts to resolve the complaint on first contact. This section also requires a CSP to (among other things):

- ensure that its personnel understand what remedies are available to assist with the resolution of a complaint;
- provide confirmation of a proposed resolution of a complaint, within 15 working days of receiving the complaint;
- tailor any remedy offered to a consumer so that the remedy addresses the main cause of the complaint, and the individual circumstances of the consumer; and
- seek to resolve the main cause of a problem or issue, if a consumer complaint has revealed a broader problem or system issue.

Section 13 is intended to ensure that CSPs communicate with consumers regarding their complaints and keep them informed of any proposed resolution of their complaint and provide written confirmation of certain matters where requested.

Section 14 Delays

Subsection 14(1) provides that a CSP must advise consumers of any delay to proposed timeframes for managing or handling their complaint as soon as possible after becoming aware of the delay.

Subsection 14(2) sets the requirements for a CSP to provide advice of certain matters when notifying a consumer that a complaint cannot be resolved within 15 working days of receiving the complaint.

Subsection 14(3) sets out requirements for a CSP to provide advice of certain matters when notifying a consumer that an urgent complaint cannot be resolved within 2 working days of receiving the complaint.

Section 15 Complaint prioritisation, escalation and external dispute resolution

Subsections 15(1) and (2) set out the requirements for a CSP to advise a consumer of internal and external escalation processes, including the TIO, when a consumer communicates to a CSP that they:

- are dissatisfied with the response times that apply to the handling or management of their complaint;
- reasonably want their complaint to be assessed and treated as an urgent complaint;
- are dissatisfied with the progress or resolution of a complaint; or

- enquire about their options to pursue a complaint further.

Subsection 15(3) provides circumstances where a CSP should not commence legal proceedings against a consumer that have the same subject matter as the complaint.

Section 16 Frivolous or vexatious complaints

This section sets out requirements that apply to a CSP where it has concluded that it can do nothing more to resolve the complaint or assist the consumer and that the consumer's behaviour, or complaint, is frivolous or vexatious.

Section 17 Attempt to make contact

This section provides that if a CSP is unable to contact a consumer to discuss their complaint or to advise them of the proposed resolution of their complaint, the CSP must write to consumer notifying them of this and provide an invitation to contact the carriage service provider to discuss the complaint within a specific timeframe of not less than 10 working days.

Part 4—Complaints monitoring and analysis

Section 18 Complaints monitoring and analysis processes, procedures and systems

This section provides that a CSP must establish processes, procedures and systems, for monitoring and analysing its complaints records to identify systemic issues and problems, and prevent those systemic issues, problems and related complaints from recurring.

Section 19 Requirements for monitoring and analysis of complaints and complaints handling process

This section imposes requirements on a CSP for monitoring and analysis of complaints and its complaint handling. The effect of this section is that a CSP is responsible for analysing complaints a minimum of once every three months, and for monitoring its complaints handling process every 12 months to identify, address and take steps to prevent frequent problems and systemic issues from recurring.

This section requires CSPs to ensure significant complaints, problems or issues identified under this section are efficiently and effectively managed and that there are processes for senior management to be notified where appropriate and to record in writing, all steps taken to analyse, manage and monitor complaints.

Part 5—Complaints record-keeping

Section 20 Requirements to keep records of complaints

Section 20 requires CSPs to keep systematic records of complaints. If a consumer makes a complaint to a CSP, it is required to keep a record of the name and contact details of the consumer (or their representative) as well as giving each complaint a unique reference number or like identifier that will enable the CSP to identify each complaint and its subject matter.

Under this section, in its systematic records of consumer complaints, the CSP is required to keep a description of the:

- nature of the complaint and the issues raised as part of the complaint;
- resolution proposed by the CSP or the consumer;

- results of any investigation;
- proposed resolution of the complaint, including any associated commitments and the date this is communicated to the consumer; and
- CSP's reasons for its proposed resolution.

The CSPs is required to keep a record of a consumer's response to a CSP's proposed resolution of the complaint, any reasons given by the consumer, and if they have requested the proposed resolution in writing, as well as copies of any correspondence sent by or to the consumer regarding the complaint, within the CSP's systematic records of complaints.

Section 21 Record retention

This section imposes requirements on a CSP to keep records that are sufficient to demonstrate its compliance with the requirements under Parts 2 to 5 of the Standard for at least two years from the date of creating the record, and make those records available to the ACMA on request.

Section 22 Privacy

This section provides that if a CSP is not subject to the requirements within the *Privacy Act 1988*, it must ensure that all personal information that is collected in connection with a complaint, is not disclosed to a third party except:

- as required to manage a complaint to the TIO or the ACMA; and
- with the express consent of the consumer; or
- where disclosure is otherwise required or authorised by law.

Part 6—Reasonable assistance

Section 23 Carriage service providers must provide reasonable assistance

The effect of section 23, is that it sets out a requirement for a first carriage service provider (i.e. wholesale carriage service provider) to provide reasonable assistance when it supplies a carriage service, and that carriage service is involved (directly or indirectly) in the supply of another carriage service by a retail carriage service provider.

The section sets out a requirement for a first carriage service provider to provide reasonable assistance to a retail carriage service provider and any other 'upstream' carriage service providers in managing and resolving any complaints received by the retail carriage service provider in relation to the retail carriage service.

Section 24 Carriers must provide reasonable assistance

Section 24 sets out a requirement for a carrier to provide reasonable assistance when it is responsible for a network unit and the network unit is used by a carriage service provider to supply a carriage service to consumers, or to supply a carriage service that is involved (directly or indirectly) in the supply of a retail carriage service.

The section sets out a requirement for a carrier to provide reasonable assistance to a retail carriage service provider and any other 'upstream' carriage service providers in managing

and resolving any complaints received by the retail carriage service provider in relation to the retail carriage service.

Section 25 Requests for reasonable assistance

Paragraph 25(a) sets out the steps a retail carriage service provider must follow prior to making a request for reasonable assistance under Part 6, including by assessing the cause of the issue that is the subject of the complaint, and determining if reasonable assistance is required to resolve the complaint from a first carriage service provider or a carrier.

Paragraph 25(b) provides that requests by a retail carriage service provider for reasonable assistance under Part 6 must meet a range of requirements, including by providing an explanation of the issues that are the subject of the complaint, identifying relevant timeframes that it is required to meet under the Standard and setting out any proposal about how reasonable assistance might be provided.

Section 26 Responding to requests for reasonable assistance

The section sets out the requirements that apply to a first carriage service provider or a carrier when responding to a request for reasonable assistance.

Under section 26 the first carriage service provider or carrier, for the purposes of responding to a request from a retail carriage service provider for reasonable assistance must (among other things):

- nominate one or more personnel as the contact person responsible for the coordination of activities in relation to the provision of reasonable assistance;
- notify relevant retail carriage service providers of an email address or some other method, where they can contact the nominated personnel, or where they can make enquiries about, or request, reasonable assistance;
- ensure that the inbox for the email address or other method of contact identified is monitored each working day; and
- ensure that all enquiries and requests for reasonable assistance received by the nominated contact are responded to as soon as practicable, including by taking all reasonable steps to enable the retail carriage service provider to meet the relevant timeframes that apply to that provider under Part 3.

Section 27 Reasonable assistance to the TIO

This section sets out the requirement that a first carriage service provider or a carrier must provide reasonable assistance to the TIO, where the TIO requests assistance to investigate a complaint about compliance that relates to the subject matter set out in Part 6.

Section 28 Requirement to keep records

This section sets out the requirement that a first carriage service provider or a carrier, and a retail service provider making requests for reasonable assistance, must keep records that are sufficient to demonstrate compliance with Part 6, and make those records available to the ACMA on written request.

Part 7—Transitional

Section 29 Transitional arrangements for unresolved complaints

This section set out transitional arrangements for unresolved complaints. It provides that where:

- a complaint was made by a consumer to a carriage service provider prior to the commencement of the Standard, and remains unresolved at or after the date of the commencement of the Standard; and
- an industry code is registered by the ACMA under Part 6 of the Act that imposes requirements on carriage service providers regarding the handling of consumer complaints,

the complaint must be assessed and dealt with as a complaint for the purpose of that industry code.

Subsection 29(2) states that a complaint referred to in paragraph 29(1)(a) must be dealt with under the Standard if at the time that the Standard is in force there is no industry code referred to in paragraph 29(1)(b).

Attachment B

Statement of compatibility with human rights

Prepared by the Australian Communications and Media Authority under subsection 9(1) of the *Human Rights (Parliamentary Scrutiny) Act 2011*

Telecommunications (Consumer Complaints Handling) Industry Standard 2018

Overview

Subsection 125AA(1) of the *Telecommunication Act 1997* (the **Act**) provides that the Australian Communications and Media Authority (**ACMA**) may, by legislative instrument, determine an industry standard setting out rules that deal with one or more matters relating to a participant in a particular section of the telecommunications industry which the standard applies to. Subsection 125AA(5) of the Act provides that the ACMA must not determine a standard unless it does so after receiving written direction from the Minister.

The ACMA has made the *Telecommunications (Consumer Complaints Handling) Industry Standard 2018* (the **Standard**) in accordance with sections 5 and 8 of the *Telecommunications (NBN Consumer Experience Industry Standard) Direction 2017* (the **Direction**). The Direction was given to the ACMA by the Minister of Communications and the Arts under subsection 125AA(4) of the Act and commenced on 23 December 2017.

The Standard, sets out a regulatory framework for carriage service providers (**CSPs**) to establish a consumer complaints-handling process, including minimum requirements for timeliness, accessibility and transparency of that process. Furthermore, a CSP must:

- establish processes, procedures and systems, for monitoring and analysing its complaints records to identify systemic issues and problems, and prevent those systemic issues and problems and related complaints from recurring; and
- keep systematic records of complaints for at least two years.

The Standard aims to ensure the professional, effective and efficient handling of complaints about the supply of services by carriers and CSPs.

Human rights implications

The ACMA has assessed whether the Standard is compatible with human rights, being the rights and freedoms recognised or declared by the international instruments listed in subsection 3(1) of the *Human Rights (Parliamentary Scrutiny) Act 2011* as they apply to Australia.

Having considered the likely impact of the instrument and the nature of the applicable rights and freedoms, the ACMA has formed the view that the instrument engages the right to privacy in Article 17 of the *International Covenant on Civil and Political Rights* (the **ICCPR**).

Right to privacy

Article 17 of the ICCPR provides:

1. No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.
2. Everyone has the right to the protection of the law against such interference or attacks.

Article 17 of the ICCPR (like Article 16 of the *Convention on the Rights of the Child* and Article 22 of the *Convention on the Rights of Persons with Disabilities*) protects the right to freedom from unlawful or arbitrary interference with privacy. Certain provisions in the Standard could be considered to limit the right to privacy. However, the right to privacy is not an absolute right and a limitation is not incompatible with the right itself.

The Standard requires CSPs to collect and use personal information regarding complaints from consumers for at least two years, to identify systemic issues and problems, and prevent those systemic issues and problems, and related complaints, from recurring.

However, the type of personal information required to be collected by CSPs and recorded under the Standard is, in the ACMA's view, necessary to assist CSPs to manage and handle complaints from consumers. Keeping records about those complaints will also enable the ACMA to investigate a complaint that a CSP has breached the Standard. The ACMA has therefore formed the view that the Standard does not cause any interference with the privacy of consumers in an unlawful or arbitrary manner.

The collection and use of personal information, which is provided for and circumscribed by the Standard, will not be arbitrary because the Standard specifies the amount of personal information that is necessary to fulfil the requirement of CSPs keeping systematic records of complaints. Most CSPs are subject to the *Privacy Act 1988* regarding the personal information they handle in accordance with the Standard. In any event, it is expected that the any personal information collected under the Standard would usually be provided with the consent of the consumer wishing to make a complaint.

Section 22 of the Standard imposes requirements on CSPs that are not covered by that Act, to ensure that relevant personal information is kept confidential and not disclosed to third parties except: as required to manage a complaint with the TIO or the ACMA; with the express consent of the consumer; or where disclosure is otherwise required or authorised by law.

These safeguards, together with the other restrictions on the handling of personal information mentioned above, indicate that the Standard is reasonable, necessary and proportionate.

Conclusion

The Standard is compatible with human rights as any interference with privacy which it may entail is neither unlawful nor arbitrary, but reasonable, necessary and proportionate to its legitimate purposes.