



Telecommunications (NBN Consumer Information) Industry Standard 2018

The Australian Communications and Media Authority determines the following industry standard under subsection 125AA(1) of the *Telecommunications Act 1997*.

Dated: 21 June 2018

Nerida O'Loughlin
[signed]
Member

James Cameron
[signed]
Member/~~General Manager~~

Australian Communications and Media Authority

Part 1—Preliminary

1 Name

This is the *Telecommunications (NBN Consumer Information) Industry Standard 2018*.

2 Commencement

This industry standard commences on 21 September 2018.

Note: The Federal Register of Legislation may be accessed at www.legislation.gov.au.

3 Authority

This industry standard is determined under subsection 125AA(1) of the *Telecommunications Act 1997* and in accordance with sections 5 and 6 of the *Telecommunications (NBN Consumer Experience Industry Standard) Direction 2017*.

Note: The *Telecommunications (NBN Consumer Experience Industry Standard) Direction 2017* was given to the ACMA by the Minister under subsection 125AA(4) of the Act.

4 Application of industry standard

For the purpose of subsection 125AA(1) of the Act:

- (a) this industry standard applies to the section of the telecommunications industry consisting of retail carriage service providers; and
- (b) the content of this industry standard deals with information and advice that retail carriage service providers must provide to consumers, to help consumers make informed decisions about NBN services, prior to entering into a contract with the retail carriage service provider for the supply of those services.

5 Definitions

In this industry standard:

ACMA means the Australian Communications and Media Authority.

Act means the *Telecommunications Act 1997*.

advertising material means any promotional or marketing material that is distributed by any means about a retail carriage service provider's NBN services.

Broadband Speed Claims: Industry Guidance means the ACCC's *Broadband Speed Claims: Industry Guidance*, which is published on its website: www.accc.gov.au.

busy period means the times between 7 pm and 11 pm in the place where an NBN broadband service is being supplied to a consumer under an NBN consumer plan.

consumer means:

- (a) an individual who acquires or may acquire an NBN service provided for the primary purpose of personal or domestic use and not for resale; or

- (b) a business or non-profit organisation which acquires or may acquire one or more NBN services which are not for resale and which, at the time it enters into the consumer contract:
- (i) does not have a genuine and reasonable opportunity to negotiate the terms of the consumer contract; and
 - (ii) has or will have an annual spend with the retail carriage service provider which is, or is estimated on reasonable grounds by the retail carriage service provider to be, no greater than \$20,000.

A reference to a consumer includes a reference to the consumer's representative.

consumer contract means an arrangement or agreement between a retail carriage service provider and a consumer for the supply of an NBN service under an NBN consumer plan to that consumer and includes a standard form of agreement formulated by a retail carriage service provider for the purposes of section 479 of the Act.

fibres to the building connection or **FTTB** means a connection used by NBN Co to facilitate the supply of an NBN service in a multi-dwelling unit, such as an apartment block or building of a similar type.

fibres to the curb connection or **FTTC** means a connection used by NBN Co to facilitate the supply of an NBN service where the connection between the distribution point unit and the network termination device uses a copper line that is owned or controlled by, or operated by or on behalf of, NBN Co and carries communications using very high speed digital subscriber line 2 (**VDSL2**) technology or successor technologies, to a premises.

fibres to the node connection or **FTTN** means a connection used by NBN Co to facilitate the supply of an NBN service where an existing copper network is used to make the final part of an NBN connection, from a nearby cabinet or micro-node to a premises.

fibres to the premises or **FTTP** means a connection used by NBN Co to supply an NBN service where an optic fibre line is run from the nearest available fibre node to the premises.

fixed line NBN connection means a connection used to supply an NBN service to a consumer using FTTB, FTTC, FTTN, FTTP or HFC.

Hybrid Fibre Coaxial or **HFC** means a connection used by NBN Co to supply an NBN service where the existing pay TV or cable network is used to make the final part of the NBN connection.

key facts sheet means the information prepared by a retail carriage service provider in accordance with subsection 7(1).

medical alarm service means an unmonitored or monitored medical alarm service that is delivered using a listed carriage service.

minimum requirements for information means the requirements for the provision of information specified in Division 2 of Part 2.

national broadband network has the same meaning as in the *National Broadband Network Companies Act 2011*.

NBN means the national broadband network.

NBN broadband service means a broadband carriage service supplied using the NBN, but does not include an NBN voice service.

NBN Co means NBN Co Limited (ACN 136 533 741) (even if its name is later changed).

NBN consumer plan means a plan for NBN services offered by a retail carriage service provider to consumers.

NBN service means a carriage service supplied using the NBN and includes an NBN broadband service, or an NBN voice service, or both.

NBN voice service means a voice telephony service supplied using the NBN, but does not include a public mobile telecommunications service or an NBN broadband service.

off-peak period means the times after 11 pm and before 7 pm the next day in the place where an NBN broadband service is being supplied to a consumer under an NBN consumer plan.

record means any information recorded, or information stored by means of a computer, and includes a document.

retail carriage service provider means a carriage service provider that supplies NBN services directly to consumers.

security alarm service means a monitored or back-to-base security alarm service that is delivered using a listed carriage service.

small business NBN consumer plan means an NBN consumer plan that is offered by a retail carriage service provider on the basis that the service will be used for business purposes, but not for the purposes of resale, by consumers.

small online advertising means online advertising material in the form of an online strip, banner, title advertising material or pop-up display window.

speed tier means the maximum download and upload wholesale access speed of an NBN broadband service measured in megabits per second (***Mbps***), that NBN Co provides, and is used by retail carriage service providers to create NBN consumer plans, including the following speed tiers:

- (a) NBN broadband service - speed tier 12/1 (Mbps);
- (b) NBN broadband service - speed tier 25/5 (Mbps);
- (c) NBN broadband service - speed tier 50/20 (Mbps);
- (d) NBN broadband service - speed tier 100/40 (Mbps); and
- (e) any other NBN broadband speed tier that is, or becomes, available.

standard work hours means the hours between 9 am and 5 pm on a working day.

typical busy period download speed means the download speed, expressed in megabits per second (Mbps), that an NBN broadband service, that is supplied under an NBN consumer plan, typically delivers each hour during the busy period or during standard work hours to a modem located in the consumer's premises from the location in a data centre at which most frequently accessed internet content is hosted.

working day means a day that is not a Saturday, Sunday or gazetted public holiday in the location of the retail carriage service provider's principal place of business.

Note: A number of other expressions used in this industry standard are defined in the Act, including *ACCC*, *carriage service*, *carriage service provider*, *communications*, *listed carriage service* and *public mobile telecommunications service*.

6 References to other instruments

In this industry standard, unless the contrary intention appears:

- (a) a reference to any other legislative instrument is a reference to that other legislative instrument as in force from time to time; and
- (b) a reference to any other kind of instrument is a reference to that other instrument as in force from time to time.

Note 1: For references to Commonwealth Acts, see section 10 of the *Acts Interpretation Act 1901*; section 589 of the Act, and see also subsection 13(1) of the *Legislation Act 2003* for the application of the *Acts Interpretation Act 1901* to legislative instruments.

Note 2: For references to instruments that are not legislative instruments, see section 589 of the Act.

Note 3: All Commonwealth Acts and legislative instruments are registered on the Federal Register of Legislation.

Part 2—Provision of information about NBN services to consumers

Division 1 – Key Facts Sheets: NBN Services

7 Requirement to provide key facts sheets about NBN services

- (1) A retail carriage service provider must:
 - (a) prepare a key facts sheet containing information about NBN services, entitled “Key Facts Sheet: NBN Services”, for each NBN consumer plan offered that:
 - (i) is clear, accurate and up-to-date;
 - (ii) uses plain language;
 - (iii) is capable of being printed out, and where relevant downloaded, in a size that is no longer than one single-sided A4 page;
 - (iv) complies with the minimum requirements for information;
 - (v) uses a font size that is at least equivalent to 12 point Times New Roman; and
 - (vi) prominently displays the information specified in section 8 so that it appears in order before the required information specified in sections 9 and 10;
 - (b) provide a copy of the relevant key facts sheet in a single document to a consumer free of charge prior to entering into a consumer contract with the consumer, except where subsections (4), (5) or subparagraph (6)(b)(ii) have been complied with;
 - (c) make its key facts sheets available on its website via hyperlinks that are prominently displayed, and in close proximity or set out adjacent to the full description of the relevant NBN consumer plan; and
 - (d) make copies of its key facts sheets available free of charge at any physical location where the provider’s NBN consumer plans are offered to consumers.
- (2) A key facts sheet prepared in accordance with subsection (1) can include the required information relating to one or more NBN consumer plans offered, provided that each NBN consumer plan included in the key facts sheet is clearly identified.
- (3) A retail carriage service provider can satisfy the requirements in paragraph (1)(c) and subsection (2) by setting out a key facts sheet on a page of its website, provided that:
 - (a) each NBN consumer plan included in the key facts sheet is clearly identified; and
 - (b) the key facts sheet can be reached via a hyperlink displayed and located as required in paragraph (1)(c), or is set out adjacent to the full description of the relevant NBN consumer plan or plans to which the key facts sheet relates.

- (4) Where a retail carriage service provider proposes to enter into a consumer contract over the telephone, the provider must:
- (a) explain to the consumer the information set out in the key facts sheet; and
 - (b) provide the consumer with the option to:
 - (i) request that a copy of the relevant key facts sheet be sent to the consumer within 2 working days after the consumer contract has been entered into; or
 - (ii) be directed to where the consumer can access a copy of the relevant key facts sheet on the retail carriage service provider's website,before the consumer enters into the consumer contract.
- (5) Where a retail carriage service provider proposes to enter into a consumer contract via the internet, the provider must direct the consumer to the web page where they can access a copy of the relevant key facts sheet, before the consumer enters into the consumer contract.
- (6) Where a retail carriage service provider proposes to enter into a consumer contract with a consumer who is present at a physical store location where the provider's NBN consumer plans are offered to consumers, the provider must:
- (a) explain to the consumer the information set out in the key facts sheet; and
 - (b) provide the consumer with the option to:
 - (i) receive a copy of the relevant key facts sheet available at the location in accordance with paragraph (1)(d); or
 - (ii) be directed to where the consumer can access a copy of the relevant key facts sheet on the retail carriage service provider's website,before the consumer enters into the consumer contract.
- (7) The provision of information to a consumer as part of a standard form of agreement formulated by a retail carriage service provider for the purposes of section 479 of the Act, does not constitute the provision of a key facts sheet by a retail carriage service provider to a consumer for the purposes of this section.

Division 2 – Minimum requirements for information

8 Minimum requirements – data speeds and online usage

- (1) A key facts sheet must:
- (a) if speed tier information is used to describe an NBN consumer plan in its advertising material for that plan, inform consumers that this represents the maximum possible speed that is available during off-peak periods;
 - (b) where the key facts sheet relates to an NBN consumer plan for a fixed line NBN connection:
 - (i) set out numerical information describing the typical busy period download speed that the average consumer can expect to receive during the busy period under the NBN consumer plan; and

- (ii) state the hours over which the typical busy period download speed applies; and
 - (c) contain information that provides a guide to consumers about the level of online usage the relevant NBN consumer plan can support during the busy period, which includes the following information:
 - (i) examples of the common online activities that the NBN consumer plan can support;
 - (ii) the approximate number of people who could participate in the common online activities referred to in subparagraph (i) simultaneously using different devices; and
 - (iii) for NBN consumer plans with the NBN broadband service speed tier 12/1 (Mbps) or lower - common online activities that are unlikely to be satisfactorily supported due to the limited data speed; and
 - (d) where the key facts sheet relates to an NBN consumer plan for a FTTB, FTTC or a FTTN connection - set out what remedies are available to consumers if it is established that the physical telecommunications network infrastructure underlying the consumer's connection to the NBN is not capable of providing the speed tier of the consumer's NBN consumer plan.
- (2) Where a key facts sheet relates to a small business NBN consumer plan for a fixed line NBN connection, a retail carriage service provider can satisfy the requirements in paragraph (1)(b) by:
- (a) setting out numerical information describing the typical busy period download speed that the average consumer can expect to receive during standard work hours under the small business NBN consumer plan; and
 - (b) stating the hours over which the typical busy period download speed applies.
- (3) Where subsection (2) applies, a retail carriage service provider must provide the information required by paragraph (1)(c) with reference to the level of online usage the relevant NBN consumer plan can support during standard work hours, instead of by reference to the level of online usage the relevant NBN consumer plan can support during the busy period.
- (4) A retail carriage service provider may use the typical busy period download speed it has determined in accordance with the *Broadband Speed Claims: Industry Guidance* as a basis for the information included in its key facts sheet in accordance with paragraph (1)(b) or (2)(a).

9 Minimum requirements – technical limitations

A key facts sheet must:

- (a) state that NBN services will not function during a power failure unless the NBN service is connected using FTTP and an NBN battery backup power supply unit is also installed and working; and

Note: The *Telecommunications (Backup Power and Informed Decisions) Service Provider Determination 2014* imposes additional disclosure and other obligations on carriage service providers that supply standard telephone services using FTTP.

- (b) state that other factors at the consumer's premises can affect or reduce the speed or performance of their NBN broadband service, provide common

examples of such factors, and state what actions consumers could take to reduce the impact of those factors.

10 Minimum requirements - medical alarm services and security alarm services

A key facts sheet must inform consumers that before they enter into a consumer contract they should undertake their own enquiries:

- (a) to assess whether a medical alarm service or security alarm service that the consumer wishes to continue using, is compatible with an NBN service; and
- (b) identify what alternatives are available if a medical alarm service or security alarm service referred to in paragraph (a) is not compatible with an NBN service,

including by contacting the provider of the medical alarm service or security alarm service.

Division 3 – Advertising material for NBN consumer plans

11 Minimum information requirements for advertising material about NBN consumer plans

- (1) A retail carriage service provider must:
 - (a) where its advertising material relates to an NBN consumer plan for a fixed line NBN connection, include the information referred to in paragraph 8(1)(b), and subsection 8(2) where applicable, in its description of the NBN consumer plan in any such advertising material that is published in printed form or online, or broadcast by any means;
 - (b) where its advertising material relates to an NBN consumer plan for a fixed line NBN connection - not use the term “up-to” or any term or phrase having a similar meaning when making claims in such advertising material about speed for NBN broadband services; and
 - (c) where speed tier information is included as text in advertising material about an NBN consumer plan, include a numerical representation of the typical busy period download speed in a font size that is at least as large as the speed tier information, and is positioned in close proximity to the representation of speed tier information and pricing information about that NBN consumer plan.
- (2) The requirements in paragraphs (1)(a) and (c) do not apply to small online advertising that is not large enough to set out all the information required to be included in advertising material by those paragraphs in a font size referred to in subparagraph 7(1)(a)(v).
- (3) Where a retail carriage service provider applies standardised labelling to NBN consumer plans in advertising material to indicate relative speed performance compared to other NBN consumer plans (such as the speed labels described in the *Broadband Speed Claims: Industry Guidance*), it must:

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- (a) set out on the provider's website a definition of each standardised label the provider uses, which includes the information required by paragraph 8(1)(c); and
- (b) ensure that those definitions can be accessed from a prominent hyperlink on its website, that is positioned in close proximity to where the standardised labels appear as part of the provider's advertising of NBN consumer plans.

Part 3—Provision of advice to consumers about NBN services

12 Minimum requirements to provide advice about NBN services

- (1) A retail carriage service provider must advise a consumer whether they will be able to keep using their existing telephone number if they transfer their voice service to the NBN:
 - (a) immediately if a consumer specifically asks the provider for this information; and
 - (b) in any event, prior to the consumer entering into a consumer contract for the supply of an NBN voice service from the provider.
- (2) Where a retail carriage service provider is engaged in a discussion with a consumer about acquiring an NBN service, or receives a request from a consumer to supply an NBN service, the provider must ask whether the consumer uses a medical alarm service or security alarm service, and where this is the case, the provider must:
 - (a) advise the consumer that if they wish to continue to use that service, they should contact the provider of those services to check whether the medical alarm service or security alarm service is compatible with an NBN service, and, if not, what alternatives are available; and
 - (b) in a case where the consumer indicates that they use a medical alarm service - recommend that the consumer register their medical alarm service on the NBN Medical Alarm Register, and advise that this register can be found on NBN Co's website.

Note: The Medical Alarm Register can be accessed on NBN Co's website:
<https://www.nbnco.com.au>.

- (3) Where a retail carriage service provider receives a request from a consumer to enter into a consumer contract for an NBN consumer plan with a FTTN, FTTB or FTTC connection, the provider must advise the consumer in clear and plain language about the matters referred to in paragraph 8(1)(d) prior to entering into a consumer contract for that NBN consumer plan.

Part 4—Record-keeping

13 Requirement to keep records

A carriage service provider referred to in paragraph 4(a) must:

- (a) keep records that are sufficient to demonstrate its compliance with the requirements under Parts 2 and 3 of this industry standard;
- (b) retain the records required to be kept by paragraph (a) for a minimum of two years; and
- (c) make those records available to the ACMA within 5 working days of receiving a written request from the ACMA.