



Telecommunications (NBN Continuity of Service) Industry Standard Variation 2020 (No. 1)

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

Dated: 16 October 2020

Creina Chapman
[signed]
Member

Cathy Rainsford
[signed]
~~Member~~/General Manager

Australian Communications and Media Authority

1 Name

This is the *Telecommunications (NBN Continuity of Service) Industry Standard Variation 2020 (No.1)*.

2 Commencement

This instrument commences on 14 December 2020.

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

3 Authority

This instrument is determined under subsection 125AA(1) of the *Telecommunications Act 1997* and in accordance with sections 5 and 7 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.

The power to make an industry standard determined under subsection 125AA(1) includes the power to vary that standard in a like manner: see subsection 33(3) of the *Acts Interpretation Act 1901* and subsection 5(4) of the *Telecommunications (NBN Consumer Experience Industry Standard) Direction 2017*.

5 Variations

The instrument that is specified in Schedule 1 is varied as set out in the applicable items in that Schedule.

Schedule 1—Variations

Telecommunications (NBN Continuity of Service) Industry Standard 2018

1 Section 5 (after the definition of Act)

Insert:

alternative arrangement means an arrangement agreed by the NBN CSP and the consumer, where the requirement to supply a legacy service under Part 3 applies, and may include:

- (a) the payment of reasonable compensation;
- (b) the application of credit to the consumer's account for mobile data;
- (c) payment to an alternative provider for the provision of a mobile data service; or
- (d) any other arrangement agreed by the NBN CSP and the consumer that is not merely:
 - (i) rescheduling an appointment to provide an operational NBN service; or
 - (ii) an arrangement that the consumer need not make payments in relation to an NBN service that is not operational.

2 Section 5 (at the end of subparagraph (b)(ii) of the definition of *consumer*)

Add “, or if the contract was entered into on or after 1 January 2020, no greater than \$40,000”.

3 Subsection 11(1)

Repeal the section, substitute:

- (1) A legacy service must be supplied to a consumer's premises where:
 - (a) the migration at the consumer's premises has been unsuccessful, and is unlikely to be successful within three working days of the NBN CSP becoming aware of the unsuccessful migration;
 - (b) the migration at the consumer's premises has been successful, but an operational NBN service has not been supplied to that consumer and cannot be supplied to that consumer within three working days of the NBN CSP becoming aware that the consumer's NBN service is not operational; or
 - (c) the following applies:
 - (i) the migration at the consumer's premises has not been attempted and is not likely to be attempted within 3 working days, and

- (ii) a consumer's legacy service has been disconnected by the legacy CSP in circumstances other than those circumstances set out in subsection 7(3),

unless an exception in subsection (2) applies.

4 Section 23

Repeal the section, substitute:

23 Requirements where there is unreasonable delay in the supply of an operational NBN service

- (1) If, at 23 working days after the NBN CSP becomes aware that:
 - (a) the migration at the consumer's premises has been unsuccessful; or
 - (b) the migration at the consumer's premises has been successful, but the consumer's NBN service is not operational,
(the relevant day) and the consumer's NBN service is still not operational, the NBN CSP must within 2 working days, prepare a plan directed at ensuring that the consumer is provided with an operational NBN service as soon as possible.
- (2) Subsection (1) does not apply where:
 - (a) the NBN CSP has provided the consumer with all of the information referred to in subsection (4) during the period of 23 working days from the occurrence of the events described in either paragraphs (1)(a) or(1)(b), whichever is applicable; and
 - (b) the information referred to in (a) continues to be accurate at the end of **the relevant day**.
- (3) Where a plan is prepared by an NBN CSP in accordance with the requirement in subsection (1), the NBN CSP must send a copy of the plan to the consumer within 2 working days of its being prepared.
- (4) A plan mentioned in subsection (1) must contain the following minimum requirements:
 - (a) if a consumer requests information about the cause of the problem with the NBN service – a diagnosis of the issue that has caused the NBN service to be not operational;
 - (b) if a consumer requests information about how the issue will be remediated – the steps required to remediate the issue and establish an operational NBN service;
 - (c) the timeframe for completing the required remedial work;
 - (d) any compensation that will be offered to the consumer; and
 - (e) contact details that the consumer can use to gain updates on the completion of the remedial work.
- (5) If, at a further 20 working days (the **further period**) after the expiration of the 23 working day timeframe mentioned in subsection (1), the NBN service is not operational, the NBN CSP must arrange for a technical audit

- to be completed within 10 working days after the expiration of the further period.
- (6) A technical audit under subsection (5) must identify:
 - (a) why the plan mentioned in subsection (1) did not result in the establishment of an operational NBN service;
 - (b) the steps that are required to remediate the issue and establish an operational NBN service as soon as possible; and
 - (c) the measures that can be instituted to avoid similar problems in other cases.
 - (7) An NBN CSP is not required to prepare a plan mentioned in subsection (1) or complete a technical audit under subsection (5) where it determines on reasonable grounds that the reason why the NBN service is not operational is due to:
 - (a) an issue on the consumer's side of the boundary of the telecommunications network; or
 - (b) NBN Co not having completed remediation steps that must be undertaken in order for the NBN service to be operational.
 - (8) Where subsection (1), (2), (3) or (5) applies, an NBN CSP must:
 - (a) keep records that are sufficient to demonstrate compliance with that subsection for a minimum of 2 years; and
 - (b) make the records available to the ACMA within 5 working days after receiving a written request from the ACMA.