



## **Submission – Consumer Safeguards Review Part B – Reliability of services**

**Financial Counselling Australia (FCA)**  
is the peak body for financial counsellors in Australia.

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## **About Financial Counselling**

Financial counsellors assist people experiencing financial difficulty. Working in community organisations, they provide advice and support to help people deal with their immediate financial situation and minimise the risk of future financial problems. Their services are free, confidential and independent.

Financial counsellors need an in-depth knowledge of credit law, bankruptcy law, debt collection law and practices, industry hardship processes and government concession frameworks.

## **Financial Counselling Australia**

FCA is the peak body for financial counsellors in Australia. FCA's member groups are the State and Territory financial counselling associations. FCA provides a voice for the financial counselling profession and advocates for a fairer marketplace for the clients of financial counsellors.

## **About the Case Studies**

The case studies in this submission came from financial counsellors around Australia. All names have been changed.

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## 1 GENERAL COMMENTS

We welcome the next part of the review of consumer safeguards. Telecommunications are an essential service and the reliability of that service is a key consumer right.

Financial counsellors assist people with issues regarding telecommunications which includes:

- Providing advice on telecommunications issues
- Representing people in financial hardship and negotiating repayment arrangements
- Representing people in telecommunications disputes (including running disputes in the TIO)

Financial counsellors see people experiencing financial difficulty. The clients of financial counsellors come from a range of backgrounds and include people:

- on low incomes (Centrelink and casual work)
- with a disability
- of non-English speaking background
- who are Aboriginal and Torres Strait Islander.

Financial counsellors, particularly those that work rurally and remotely, report problems with the reliability of telecommunications services.

We strongly support the principles set out in the Consultation Paper:

- Principle 1: Telecommunications is an essential service, and the entire industry needs to be responsible for keeping consumers connected.
- Principle 2: Consumer safeguards are best delivered through direct regulation to support public policy.
- Principle 3: Consumers should get what they pay for.
- Principle 4: Network reliability is an important purchasing consideration and should be transparent.
- Principle 5: Arrangements should incorporate public accountability and transparency.
- Principle 6: Data collection, analysis and reporting should drive improved outcomes.

We also support the reasoning set out in “The problem” on the need for change.

## 2 PROPOSAL 1: MANDATORY RULES FOR CONNECTIONS

We strongly support the proposals set out under Proposal 1 which include:

- establishment of mandatory rules and timeframes for connection and repair for fixed telecommunications services networks;
- the standards are enforceable by the regulator, ACMA;
- people are not billed until the service is connected or restored (calculated on a daily basis);
- connections or repair issues that do not require attendance must be completed no later than the next working day;
- explaining and setting time frames for the delivery of necessary equipment;
- the timeframes for network connections as set out in the Consultation Paper;
- if an appointment is needed to make a new connection or fix a problem the technician must turn up as agreed or give 24 hours advance notice;
- appointments must be for a specific time or no more than a 3-hour window;
- the technician is late for the appointment if they don't arrive in the agreed window of time or more than 15 minutes late for a specific appointment;
- when a major incident makes it impossible or unsafe to comply with maximum timeframes, the telco would provide ACMA with a network rectification plan which is made public and updated every 5 days until the issue is resolved; and
- the network rectification plan must include prioritisation of connection for any customers with a life-threatening medical condition.

To make the mandatory rules effective we argue that the following additional requirements must be included in the mandatory rules:

1. the timeframes that apply for repair and connection to retail service providers must be at least the same or shorter than the Customer Service Guarantee.
2. Repair and connection times must be in days not working days.
3. Compensation for missed appointments should be increased to \$100 as a minimum.
4. Notification. People need to know if their internet or phone is not working due to an outage. This is discussed further at 6.1 below.
5. Logging faults. There needs to be a comprehensive and standardised way to check and log faults on a web page. This is discussed further at 6.2 below.

6. Compensations and refunds need to be automated and audited. People need to have confidence that refunds and compensation will be processed. This issue is discussed further at 6.3 below.

### 3 PROPOSAL 2: KEEPING CUSTOMERS CONNECTED

We support all of the proposals listed under Proposal 2.

#### Issues for comment

1. *Are the proposed timeframes to connect or repair a service reasonable?*

Yes, subject to our proposal for shorter timeframes for people with life threatening medical conditions.

2. *Will the proposed arrangements and penalties for missed appointments provide suitable incentives for industry?*

We strongly support the proposed system. We believe that penalties work as an effective incentive to ensure standards are met.

3. *Are there other options that could help maximise service continuity for people with a diagnosed life threatening medical condition?*

There are several options which could be considered in addition to the service standards:

- Notification so those people can get back up – for example help from a friend or relative through a mobile phone; and/or
- Organising access to a mobile phone.

4. *Should providers be able to seek approval from the ACMA to offer services with different reliability timeframes on a product by product basis (which if approved would then become binding)? If so, what process and criteria would best support this?*

No, providers should not be able to offer different reliability timeframes. There are several reasons why we think this would lead to poor outcomes for people:

- People often do not understand what they are agreeing to when buying a service. This would leave them with a service that did not meet the minimum expected standards;
- Varying minimum standards causes confusion. People will not understand why their standards are less than other people they know;
- Lowering standards also causes a “race to the bottom” rather than setting an environment for competition to improve standards.

*5. Should consumers be given the option to exit their service contract without penalty where frequent or recurring faults occur?*

Yes. This is consistent with the Consumer Guarantee under the Australian Consumer Law. This should be added into the regulations to make sure that telecommunications providers are aware that people have this right.

*6. How can industry best ensure consumers are not left without a working fixed connection for lengthy periods? What alternative service arrangements are reasonable?*

It appears the main back up plan is to switch people to the mobile network. In theory this is a reasonable back up. However, there is one major problem with the mobile network – coverage. There are many people across Australia who have poor mobile network reception. Those reception problems need to be resolved by improving coverage and reception.

At a minimum, it must be mandatory to switch people to the mobile network (with no extra charge) if a fixed line is down. For people with poor and no coverage further compensation is required.

ACNA needs to set both pack up protocols and compensation amounts depending on the outage.

## **4 PROPOSAL 3: NETWORK RELIABILITY METRICS AND REPORTING**

We strongly support the proposals for collecting and publishing network reliability information.

Issues for comment

1. *What information on network reliability is most meaningful and valuable to consumers?*

The most meaningful data for consumers would be:

- time taken to connect a service;
- time taken to repair a service;
- frequency and duration of outages;
- planned maintenance including duration and impact

2. *How should network reliability information be made publicly available, and how often should providers be required to report to the ACMA?*

The information should be published on the ACMA and ACCC websites with both a table and an infographic. A link to the information should be available from the ACMA's and the ACCC's homepage. The information should be published quarterly.

3. *If and how should consumers be advised of major outages and timeframes for remediation?*

People should definitely be notified of not just major outages but any outage over 1 hour. People should be advised by both SMS and email.

The remediation must be processed within 30 days of the outage.

## **5 PROPOSAL 4 – DATA COLLECTION AND REPORTING**

### Issues for comment

1. *What industry data should be provided to the ACMA for analysis and reporting, and how often should this be provided?*

Data on compliance with these standards should be supplied to ACMA. The data should be provided quarterly.

2. *How often should ACMA publish reports and analysis?*

Quarterly.



## General issues for comment

1. *Do the proposals in this paper address the major issues for concern with the current framework for reliability of services? If not, what additional measures could be included?*

Please see our additional proposals above under point 6 below “What else is needed to ensure reliability.”

2. *Are there any unforeseen issues or unintended consequences of the proposals?*

No.

3. *What considerations should be taken into account in implementing the proposals outlined in this paper, including practical timeframes for implementation?*

The proposals should be implemented as soon as possible.

4. *Are there any other issues that should be brought to the Government’s attention?*

See below at 6.

## **6 WHAT ELSE IS NEEDED TO ENSURE RELIABILITY**

### **6.1 Notification**

People rely heavily on the internet. With the roll-out of the NBN, increasingly people in Australia rely on the internet for their home phone (VOIP). When the internet goes down (whether planned or unplanned) it causes enormous disruption to people relying on the internet for communication.

Consistent with Principle 4 in the Consultation Paper, standards need to be set so that people are kept informed about whether the internet is working or not. People can spend many hours trying to work out whether a computer or modem is not working, when it was just that the external internet network was not working. Conversely, if the person has not received a notification about a network service disruption then they can troubleshoot that the problem is something else.

The following standards should apply.

**Timeframes for notification of internet failure**

Type of network failure	Disruption	Notice
Unplanned	Less than one hour	No notice required
	Over an hour	Notify by SMS with estimate of time to fix
Planned	Less than an hour	No notice required
	Over an hour or rolling interruptions over days	24 hours advance notice including details of when the interruption(s) will occur

**Interruption of service and billing**

Type of network failure	Disruption	Billing
Unplanned  (an exemption for natural disasters)	Less than one hour	No reduction in Bill
	Over an hour	A pro rata reduction in the service charge
Planned	Less than an hour	No reduction in Bill
	Over an hour or rolling or extended interruptions over days	A pro-rata reduction in the service charge and compensation for loss

**6.2 Logging faults and outages**

People need to be able to log faults and review updates on faults being fixed. This process needs to be standardised for each provider so each customer finds it simple and predictable regardless of their service provider.

As an example, the Ausgrid page for electricity is a useful example of how it should work. The faults page should include:

- A prominent “Report a problem” section that includes a form, an automatic confirmation email confirming receipt and details of the fault logged
- A process for responding to the customer about the fault
- Comprehensive details of current faults and status

- A way to check faults for the customer's own address and area
- Historical details of faults and how long it took to be rectified

The rules must specify these requirements in detail.

It is in the interests of telecommunications services to be told about faults in case they fail to detect the fault.

People must have a way to check faults and outages to ensure there is a transparent process to make sure they receive a refund and/or compensation when a service has not been provided.

#### **Case study – Magnetic Island**

There are around 3,000 permanent residents on Magnetic Island QLD. They have Telstra and Optus as telco providers. Any other providers are using one of those networks. They do not have NBN.

The residents can lose mobile reception on one side of the island without notice. This happens regularly. Sometimes the whole island has no connectivity for mobile at all. It is hit and miss. The service costs more compared to people who live on the mainland. The Magnetic Island Community site has many complaints about this and the frustration continues.

### **6.3 Compensation and refunds**

People need to be confident there is an automated process in place for refunds and/or compensation if there is a service failure or delayed connection.

It should not be up to the customer to establish the fault, contact the Telco, work out the refund and request payment. It must be an automated process where the Telco:

- Contacts the customer to give details of the service failure;
- Advises the customer of the amount of the refund and how it is calculated;
- Tells the customer when the refund will be processed;
- Gives details of IDR and the TIO if the customer still has a dispute.

To ensure that this process is working the Telco should provide regular reports to ACMA and ACMA should also audit to ensure the process is working effectively.

#### 6.4 Life threatening medical conditions

The change to the NBN means that people who do not have mobile phones may be wholly reliant on the internet (VOIP) for emergency calls. If the internet is down then they may not be able to call for help. Even if they have a mobile phone it may be in a black spot and be unreliable.

The Consultation Paper does cover priority connection for people with life threatening medical conditions when there is a network failure. That is a step forward. Further standards are required to ensure that people with life threatening medical conditions get priority.

Three further measures are required:

- An acknowledgment that connections and repairs are a priority and repairs must be on a high priority basis
- Shorter standards set for timeframes for network connections as follows:

Area	Existing connection or close to required infrastructure	Not close to required infrastructure
Significant urban areas	within 1 day	within 2 days
Other	within 1 day	within 2 days

Area	Repair time
Significant urban areas	Within 4 hours
Other	End of next day

- A notification process to an emergency contact to ensure that people who do not have a mobile phone or reception and have serious medical conditions can be checked on and remain in communication.

#### 6.5 Retailer vs. Wholesaler

People do not understand the difference between wholesalers and retailers. They should not have to understand the difference. The retailer should be

responsible for the wholesaler. The mandatory standards should reflect this principle. The retailer should not be able to use the wholesaler failure as an excuse. If there is a failure, then the retailer should rectify and compensate. If the retailer needs to take action against the wholesaler then that is a matter between those parties.

## 6.6 Mobile network

The proposals include standards for fixed networks but there needs to be more specific consideration of mobile networks. Standards need to be set for mobile networks. People rely heavily on mobile phones for communication. For many people (particularly low income people) their mobile phone is both their phone and internet.

Standards need to be set for the mobile network including:

- Remediation and compensation for network outages;
- standards on coverage
- notification about network failures and planned mobile tower works that will affect reception

### Network outages

The standards set for fixed line outages should apply to mobile network outages.

People should be entitled to at least a pro rata reduction of services charges for mobile network outages of more than an hour. Compensation should also be available where the outage causes demonstrated financial loss.

### Standards on coverage

People need detailed information on coverage for the areas they plan to use the mobile phone. This information is often not provided and people can be sold phones where reception is unreliable in their area. Mobile network coverage is a reliability issue. The mobile phone is far more reliable if there is good coverage.

People need the following:

- detailed information about coverage at the point of sale; and

- a clear remedy of cancellation without cost (this is already available through the Australian Consumer Law) if the phone has poor reception. People need clear information about that right.

#### Notification about network failures and planned work on mobile towers that may affect reception

As stated above, people need to be notified about planned and unplanned outages or potential problems with reception. That notification should be via email and text.

#### Disconnection or service failure without notice

##### **Case study**

Cecilia has a pre-paid phone with Telstra. She lives remotely. The phone was disconnected without notice. Cecilia rang Telstra to ask what had happened. Telstra said the only way the problem could be resolved was to come into the Telstra shop in Broome. Cecilia had to drive 480KM to Broome to resolve the issue.

The above case study exemplifies why it is so important that people are given reasons and notice about a service disconnection or failure. The above case study also illustrates the poor dispute resolution procedures of Telstra.

#### **6.7 Selling people phones and plans where there is poor or no coverage or the coverage gets worse**

Coverage is a reliability issue. Mobile phones are only as good as their reception. Poor reception or no reception and the phone is basically a paperweight. The phone is not for for purpose without reception in the main areas it will be used.

The Australian Consumer Law provides protections and remedies for this problem and the Telecommunications Consumer Protection Code (TCP Code) requires that a map is provided. However, these measures remain ineffective as people still get sold phone plans with a provider who has no coverage in their area.

It is positive that in recent times coverage has improved Australia wide but this does not mean the problem is being effectively prevented. There are still black spots and poor coverage spots all over Australia. The disclosure on this point remains poor and completely unacceptable.

### **Case study**

Judy went into the Port August Telstra shop in 2017. Judy lives in a remote Aboriginal community in the APY Lands – the Amata community. Her main source of income is Centrelink Newstart. When Judy left the store, she had been sold a tablet and mobile phone. She was never given a coverage map and did not realise that at the time the phone would not work where she lived. Judy is still dealing with the debt and making payments. The financial counsellor has now lodged a dispute in the TIO.

It is not effective to provide a coverage map or tell people to go back and argue over coverage. The sale of phone services that have poor or no coverage must be prevented. It is not acceptable to know that there is a problem with coverage when selling phone plans and simply hope that people will not complain too much. The Vodafone/Vodafail campaign showed that people can come together to complain but the main point is that a campaign should not be necessary.

### **Case study**

Sally is a 51-year-old Aboriginal woman from a remote community Nyapari. Sally works in the community. The community does not have a phone tower and there are no plans to build one as it is a small community. On seeing the financial counsellor, it was discovered that Sally had a Telstra phone plan and phone which could not be used at all where she lived. The phone plan was arranged in the Telstra shop at Alice Springs. The financial counsellor is seeking a release from the debt.

The mandatory standards in reliability need to include the following to address coverage issues:

1. The customer is entitled to coverage where they live and work as a minimum standard of service. The customer needs to be asked these details so this can be assessed.
2. The phone service is not fit for purpose if there is no coverage at work and home. If coverage is poor or non-existent then the phone service should not be sold. If it is sold in those circumstances, there must be a full release from the contract for the consumer, including a refund of any plan costs.
3. The telco must report on these issues and there must be automatic fines for non-compliance.

4. If coverage changes (maintenance or any other reason) the customer must be notified and given the option to leave the plan at no further cost.