

Commonwealth of Australia

Telecommunications (Consumer Protection and Service Standards) Act 1999

**Telecommunications (Customer Service Guarantee)
Direction No. 1 of 1999 (Amendment No. 1 of 2006)**

I, HELEN LLOYD COONAN, Minister for Communications, Information Technology and the Arts, give the following Direction under section 124 of the *Telecommunications (Consumer Protection and Service Standards) Act 1999*.

Dated 7 July 2006.

HELEN COONAN

Minister for Communications, Information Technology and the Arts

1 Name of Direction

This Direction is the *Telecommunications (Customer Service Guarantee) Direction No. 1 of 1999 (Amendment No. 1 of 2006)*.

2 Commencement

This Direction commences on the day after it is registered on the Federal Register of Legislative Instruments.

3 Application

This Direction applies in relation to matters dealt with by the Telecommunications (Customer Service Guarantee) Direction No. 1 of 1999, as amended by this Direction, that occur on or after 31 October 2006.

4 Variation

The Telecommunications (Customer Service Guarantee) Direction No. 1 of 1999 is varied as set out in the Schedule to this Direction.

Schedule**Amendments**

(clause 3)

[1] Clause 4, definition of ACA

substitute

ACMA has the same meaning as in the *Australian Communications and Media Authority Act 2005*.

[2] Clause 4, paragraph (f) of the definition of *enhanced call handling feature*

omit

ACA

substitute

ACMA

[3] Clause 4, after the definition of *external plant facility*

insert

extreme weather conditions means weather conditions that meet one or more of the criteria specified in Schedule 3.

[4] Clause 4, definition of *interim service*

omit

ACA

substitute

ACMA

[5] Note to Part 2, Performance standards

omit

ACA (twice occurring)

substitute

ACMA

[6] Subclause 6(1)

omit

ACA

substitute

ACMA

[7] Subclause 6(3)

omit

ACA

substitute

ACMA

[8] Subclause 7(3)

omit

ACA

substitute

ACMA

[9] Subclause 10(3)

omit

ACA

substitute

ACMA

[10] Subclause 11(4)

omit

ACA

substitute

ACMA

[11] Subclause 13(2)

omit

ACA

substitute

ACMA

[12] Subclause 17(1)

substitute

- (1) Subject to this clause, performance standards must exempt a carriage service provider from compliance with the standards to the extent that non-compliance is due to circumstances beyond the control of the provider, including (but not limited to):
- (a) cases of wilful damage to facilities of the provider;
 - (b) natural disasters that cause mass outages of services and restrict rectification or connection activities;
 - (c) extreme weather conditions that cause mass outages of services and restrict rectification or connection activities;
 - (d) where the provider has been requested by a Commonwealth, State or Territory authority or a relevant local government authority to provide emergency communication services to assist in rescue or emergency action and the provision of these services restricts rectification or connection activities;
 - (e) where the provider needs to obtain access to land or facilities owned or occupied by a third party and failure to obtain that access restricts rectification or connection activities;
 - (f) requirements by or under a law of the Commonwealth, a State or a Territory.

[13] Subclause 17(2)

omit

paragraph (1)(c)

substitute

paragraph (1)(d)

[14] Subclause 17(5)

substitute

- (5) Subject to subclause (6), performance standards must provide that a carriage service provider intending to claim exemption under subclause (1) must:
- (a) give each affected customer a statement in writing indicating:
 - (i) the fact that the provider is claiming an exemption;
 - (ii) the grounds on which the exemption is claimed; and
 - (iii) the ability of the customer to dispute the claim by complaining to the TIO; and
 - (b) if the claim relates to extreme weather conditions that cause mass outages of services and restrict rectification or connection activities, provide each affected customer with evidence, in writing, to substantiate that the claim meets one or more of the criteria in Schedule 3.

[15] Paragraph 17(7)(a)

omit

ACA

substitute

ACMA

[16] After paragraph 17(7)(a)

insert

- (aa) if the provider's claim for an exemption relates to extreme weather conditions that cause mass outages of services and restrict rectification or connection activities, must require the provider to publish evidence to substantiate that the claim meets one or more of the criteria specified in Schedule 3; and

[17] Paragraph 17(7)(b)

omit

ACA (twice occurring)

substitute

ACMA

[18] Paragraph 17(7)(c)

omit

ACA (twice occurring)

substitute

ACMA

[19] Subclause 19A(1)

omit

ACA

substitute

ACMA

[20] Paragraph 19A(2)(f)

omit

ACA

substitute

ACMA

[21] Paragraph 19A(3)(d)

omit

ACA

substitute

ACMA

[22] Subclause 19A(5)

omit

ACA (twice occurring)

substitute

ACMA

[23] Subclause 19A(6)

omit

ACA (twice occurring)

substitute

ACMA

[24] Paragraph 19A(8)(a)

omit

ACA

substitute

ACMA

[25] Note to Part 3, Damages

omit

ACA (twice occurring)

substitute

ACMA

[26] Subclause 20(1)

omit

ACA

substitute

ACMA

[27] Subclause 20(2)

omit

ACA

substitute

ACMA

[28] Note to subclause 22(2)

omit the note

[29] After subclause 22(2)

insert

- (2A) For the purposes of paragraph (2)(a), a reasonable offer by a carriage service provider to supply a customer with an alternative service must:
- (a) provide the customer with a choice between an interim service and an alternative service to enable the customer to make an informed judgement about the relative merits of both service offerings; and
 - (b) provide sufficient information about how the functionality and the terms and conditions of supply of the alternative service would be of benefit to the customer, relative to an interim service.

[30] Note to subclause 22(3)

omit the note

[31] After subclause 22(3)

insert

- (3A) For the purposes of paragraph (3)(b), sufficient information supplied to a customer about the functionality of each service, and the terms and conditions of supply of each service, must include details of:
- (a) any enhanced call handling services that may be supplied with the service; and
 - (b) charges payable by the customer; and
 - (c) connection timeframes; and
 - (d) the estimated period of supply of the service, taking into account the estimated time to repair or connect the service, and the maximum period allowed for the supply of an interim service.

[32] Schedule 2, Part 2

substitute

Part 2 Contraventions and damages

Item No.	Categories of contraventions of performance standards	Corresponding damages payable
1	Delay (<i>see items 1 and 2 of Part 1</i>) in connecting the CSG service (whether or not an enhanced call handling feature is associated with that service)	The damages payable for each working day of delay, for the first 5 working days, is \$14.52 for the residential/charity customer (<i>see item 3 of Part 1</i>), and \$24.20 for the business customer (<i>see item 4 of Part 1</i>), who requested the connection. After the first 5 working days of delay, the damages payable for each working day of delay is \$48.40
2	Delay in connecting an enhanced call handling feature to an existing CSG service	The damages payable for each working day of delay, for the first 5 working days, is \$7.26 for the residential/charity customer, and \$12.10 for the business customer, who requested the connection, up to a maximum of \$14.52 for the residential/charity customer and \$24.20 for the business customer if 2 or more features have not been connected. After the first 5 working days of delay, the damages payable for each working day of delay is \$24.20, up to a maximum of \$48.40 for each working day of delay if 2 or more features have not been connected
3	Delay in rectifying a fault or service difficulty of the CSG service (whether or not an enhanced call handling feature is associated with that service)	The damages payable for each working day of delay, for the first 5 working days, is \$14.52 for the residential/charity customer, and \$24.20 for the business customer, whose service required rectification. After the first 5 working days of delay, the

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| | | damages payable for each working day of delay is \$48.40 |
| 4 | Delay in rectifying a fault or service difficulty of an enhanced call handling feature not preventing the operation of the CSG service | The damages payable for each working day of delay, for the first 5 working days, is \$7.26 for the residential/charity customer, and \$12.10 for the business customer, whose service required rectification, up to a maximum of \$14.52 for the residential/charity customer, and \$24.20 for the business customer, if 2 or more enhanced call handling features have not been rectified. After the first 5 working days of delay, the damages payable for each working day of delay is \$24.20, up to a maximum of \$48.40 for each working day of delay if 2 or more features have not been rectified |
| 5 | A failure to keep an appointment (other than on a day for which damages calculated in accordance with items 1-4 are payable) | The damages payable for each missed appointment is \$14.52 for the residential/charity customer, and \$24.20 for the business customer, who was to be met |

[33] After Schedule 2

insert

Schedule 3 Criteria for extreme weather conditions

(clause 4)

Phenomenon	Criteria for extreme weather conditions
Large hail	Hail with a diameter of at least 2 centimetres.
Heavy rainfall	Rainfall that exceeds the 10 year average recurrence interval (ARI) – that is, the rainfall amount that has a probability of 10 per cent or less of being exceeded in a year over a given duration.
Flash flood	A reported flash flood or heavy rainfall that is conducive to flash flooding.
Hazardous winds	10 minute mean winds of 63 kilometres per hour or more and/or gusts of 90 kilometres per hour or more.
Lightning	‘Cloud to ground’ lightning strikes.
Blizzard	Gale force winds (10 minute mean wind of 63 kilometres per hour or more) combined with falling or blowing snow that reduces visibility to less than 200 metres.
Tornado	Any tornado.
Large waves	Unusually large surf waves (surf exceeding 5 metres) expected to cause dangerous conditions on the coast and leading to significant beach erosion.
Storm tides	Abnormally high tides caused by winds (expected to exceed highest astronomical tide).