

EXPLANATORY STATEMENT

Approved by the Australian Communications and Media Authority

Telecommunications Act 1997

Telecommunications (NBN Continuity of Service) Industry Standard 2018

Authority

The Australian Communications and Media Authority (the **ACMA**) has determined the *Telecommunications (NBN Continuity of Service) Industry Standard 2018* (the **Standard**) under subsection 125AA(1) of the *Telecommunications Act 1997* (the **Act**) and in accordance with sections 5 and 7 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 telecommunications 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 7 of the Direction requires the ACMA to determine an industry standard about promoting the continuity of voice and broadband services.

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).

Purpose and operation of the Standard

Background

Currently, there are no legislative ‘service continuity standards’ applicable across industry in relation to transition of services from legacy services to the national broadband network (the **NBN**). However, a framework establishing principles that guide the migration process, setting out roles and responsibilities of all telecommunications industry parties for a seamless service transition to an NBN service for consumers and businesses, has been in place since the Department of Communications and the Arts released the *Migration Assurance Policy Framework* (the **MAF**) in February 2016. Pillar 4¹ of the MAF focuses on the installation and activation activities that take place after a consumer has placed an order for an NBN service to promote service continuity. However, research indicates that a significant percentage of

¹ See DoCA ‘Migration Assurance Policy Framework, February 2016, Pillar 4 - Installation and activation of national broadband network services’ (pages 28-9).

households have self-reported as being left without voice and/or broadband services during the process of connecting to their NBN service².

Requirements in the Direction

The Explanatory Statement to the Direction states that Division 3 of Part 2 of the Direction (section 7) sets out matters to be dealt with by the industry standard to:

require carriers and carriage service providers (**CSPs**) to provide continuity of voice and broadband services to consumers in certain circumstances.

Subsection 7(1) of the Direction provides that the ACMA must determine an industry standard that:

- (a) applies to all of the following:
 - (i) CSPs in relation to the services they supply using a legacy network;
 - (ii) CSPs in relation to the services they supply using the NBN;
 - (iii) carriers to the extent that those carriers supply legacy services;
 - (iv) NBN Co Limited (**NBN Co**) in its capacity as a carrier;and
- (b) deals with the provision of voice and broadband services by persons listed in paragraph 7(1)(a) to consumers in areas where legacy services are readily able to be supplied and the area has been declared ready for service by NBN Co.

Paragraphs 7(2)(a) to (c) of the Direction set out the following additional requirements that the Standard must contain:

- (a) requirements for the supply to a consumer of a legacy service that is a voice service, a broadband service, or both, to their premises using a legacy network, where it is not possible to obtain a working voice or broadband service using the NBN, including requirements for the supply of such services in the following circumstances:
 - (i) where the migration of a legacy service to the NBN has been unsuccessful, and is unlikely to be successful within a reasonable period of time; and
 - (ii) where the migration of a legacy service to the NBN has been successful, but a voice service or broadband service cannot be supplied to a particular consumer on the NBN for an unreasonable period of time, and it remains readily feasible to supply legacy services to that premises;
- (b) processes for the reconnection of legacy services if required in accordance with a requirement for the purposes of paragraph 7(2)(a), including timeframes for completion of those processes;

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

- (c) requirements for persons listed in paragraph 7(1)(a) to nominate a contact point for coordination activities in relation to reconnection of legacy services, including requirements regarding who that nomination must be communicated to, and in what manner.

Operation of the Standard

The aim of the Standard is to promote the continuity of voice and broadband services for those consumers who are migrating, or attempting to migrate, from a legacy service to a service on the NBN. To this end, the Standard requires:

- CSPs that provide NBN services (**NBN CSPs**), CSPs that provide legacy services (**legacy CSPs**), carriers who own legacy networks and NBN Co to comply with obligations intended to minimise disruption to the continuous supply of carriage services to consumers;
- legacy CSPs (which may also be NBN CSPs) to reconnect consumers to legacy services in specified circumstances where an operational NBN service cannot be supplied to the consumer.

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 *Acts Interpretation Act 1901* (the **AIA**);
- the Direction; *Handling of Life Threatening and Unwelcome Communications Code C525:2017* (the **UCC Code**);
- the LA;
- the *Local Number Portability Code C540:2013* (the **LNP Code**);
- the *National Broadband Network Companies Act 2011*;
- *Rights of Use of Numbers Code ACIF C566:2005* (the **ROU Code**);
- *Telecommunications Numbering Plan 2015*;
- the migration plan, being the plan given by Telstra to the Australian Competition and Consumer Commission (**ACCC**) and approved by the ACCC under subsection 577BDA(2) of the Act; and
- the *Wholesale Broadband Agreement*, being the standard form of access agreement for the purposes of Part XIC of the *Competition and Consumer Act 2010*, setting out the contractual terms on which NBN Co supplies products and services to NBN CSPs and the persons mentioned in paragraph 4(a)(2) of the Standard (the **WBA**).

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 other instruments listed above are incorporated as in force from time to time, in accordance with section 6 of the Standard, subsection 14(1) of the LA and section 589 of the Act.

Under paragraph 589(2)(b) of the Act, an instrument made under the Act may make provision in relation to a matter by applying, adopting or incorporating (with or without modifications) matter contained in any other instrument or writing, as in force or existing from time to time; even if the other instrument or writing does not yet exist when the instrument is made. This power has been relied upon to incorporate the LNP Code, the UCC Code, the ROU Code, migration plan and the WBA.

The UCC Code, the ROU Code and the LNP Code are available on the ACMA's register of industry codes which is published on its website: www.acma.gov.au. The migration plan is available at <https://www.accc.gov.au>. The WBA is available on NBN Co's website at <https://www.nbnco.com.au>.

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) and section 132 of the Act.

The ACMA consulted with Communications Alliance (being a body that represents the telecommunications industry), industry stakeholders, consumer groups, 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 15 submissions in response to the draft Standard and consultation paper. The ACMA considered all relevant issues raised by the submissions.

As a result of the issues raised in submissions, the ACMA re-drafted the Standard and conducted further consultation, specifically with Communications Alliance, industry stakeholders, and the Australian Communications Consumer Action Network. Between 8 June and 13 June, the ACMA conducted a targeted consultation process inviting submissions on the proposed changes. The ACMA received five further submissions in response to the re-draft of the Standard. The ACMA considered all relevant issues raised by the submissions in the initial and targeted consultation process, 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, 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 with human rights to be prepared in respect of that legislative instrument.

The statement of compatibility set out below has been prepared to meet that requirement.

Overview of the Standard

Subsection 125AA(1) of the Act provides that the ACMA may, by legislative instrument, determine a standard that applies to participants in a particular section of the telecommunications industry; and deals with one or more matters relating to the telecommunications activities of those participants.

The Standard imposes requirements on NBN CSPs and NBN Co to take all reasonable steps within their control to manage the migration of a consumer's legacy service to an NBN service in a way that minimises disruption to the continuous supply of carriage services to the consumer.

The Standard also imposes requirements on certain NBN CSPs and legacy CSPs to supply a consumer with a legacy service that is a voice service, a broadband service, or both, to their premises using a legacy network, or with an interim service where a consumer consents, in certain circumstances where it is not possible to obtain a working voice or broadband service using the NBN.

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 does not have any human rights implications that require further consideration.

Notes to the *Telecommunications (NBN Continuity of Service) Industry Standard 2018*

Part 1–Preliminary

Section 1 Name

This section provides that the name of the instrument is the *Telecommunications (NBN Continuity of Service) Industry Standard 2018* (the **Standard**).

Section 2 Commencement

This section states that:

- Part 1 and section 26 of the Standard commence on 23 July 2018; and
- its remaining provisions commence on 21 September 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 7 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**) in relation to the services they supply using a legacy network;
 - CSPs in relation to the services they supply using the NBN;
 - carriers (other than NBN Co) to the extent that those carriers supply legacy services;
 - NBN Co in its capacity as a carrier, and
- the content of the Standard deals with the provision of voice and broadband services by those CSPs and carriers to consumers at premises in areas that have been declared ready for service by NBN Co, and where legacy services are readily able to be supplied in those areas.

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 legislative or other instrument is a reference to that legislative or other instrument as in force from time to time.

Part 2– Requirements to minimise disruption to the supply of carriage services to consumers for all migrations in ready for service areas

Section 7 NBN CSPs must take all reasonable steps to manage migration

This section imposes requirements on an NBN CSP to take all reasonable steps to manage the migration at a consumer's premises in order to minimise disruption to the continuous supply of carriage services to the consumer and expedite the supply of an operational NBN service to the consumer.

Subsection 7(2) states that where the migration at a consumer's premises is a parallel migration:

- the NBN CSP must not disconnect (or request the disconnection of) the consumer's legacy service until post-migration testing results indicate that the consumer's NBN service is operational; and
- where the NBN CSP is not the legacy CSP:
 - it must inform the consumer that they should not request their legacy CSP to disconnect the legacy service prior to the consumer having assured themselves that the NBN service is operational; and
 - the legacy CSP must not disconnect (or request the disconnection of) the legacy service unless it has been requested to do so by the consumer.

Subsection 7(3) states that subsection 7(2) does not apply where:

- the NBN CSP must disconnect the consumer's legacy service in order to port the consumer's telephone number to the NBN service;
- the consumer has requested a disconnection of their legacy service by the NBN CSP (who is also the consumer's legacy CSP) prior to migration at the consumer's premises; or
- the NBN CSP (who is also the consumer's legacy CSP) has disconnected the consumer's legacy service for a valid reason.

Subsection 7(4) provides that a consumer must have expressly requested the disconnection of their legacy service and not as part of a standard form of agreement formulated by a carriage service provider for the purposes of section 479 of the Act.

Section 8 NBN Co must take all reasonable steps to manage migration

This section requires NBN Co to take all reasonable steps to manage the migration at a premises in a way that minimises disruption to the continuous supply of carriage services to the consumer.

Subsection 8(2) provides, as part of undertaking reasonable steps, that NBN Co must:

- not advise an NBN CSP, legacy CSP or legacy network carrier that the migration at the consumer's premises is complete until it has taken all reasonable steps to ensure that successful migration at the premises has occurred; and
- where the migration at the consumer's premises has been unsuccessful – take all reasonable steps to notify the consumer's NBN CSP that migration to the NBN service has not been successful, within one working day of becoming aware of that fact.

Part 3 – Circumstances where a legacy service must be supplied

Section 9 Requirement to reconnect a legacy service only applies to parallel migrations to the NBN

This section provides that the requirement to reconnect a consumer's legacy service set out in section 11 only applies where the migration at the consumer's premises is a parallel migration, and the consumer's legacy service has been disconnected.

Section 10 Other conditions that must apply for reconnection of a legacy service to be required

This section provides that the requirement to reconnect a consumer's legacy service under section 11 only applies where the consumer's premises is in a ready for service area declared by NBN Co and the NBN CSP has entered into a contract with the consumer for the supply of an NBN service to the premises.

Section 11 Requirement to supply a legacy service to a consumer's premises

Subsection 11(1) provides that a legacy service must be supplied to a consumer's premises when the migration at the consumer's premises has been:

- unsuccessful, and a successful migration is unlikely to be achieved within three working days of the NBN CSP becoming aware of the unsuccessful migration; or
- 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.

Subsection 11(2) provides exceptions to the requirements in subsection 11(1), where: the consumer does not consent to the supply of the legacy service; the NBN CSP is supplying a backup service to the consumer; the consumer has consented to the supply of an interim service by the NBN CSP; or the consumer and the NBN CSP have agreed on an alternative arrangement, which may include the offer of compensation.

Subsection 11(3) provides that for paragraphs 11(2)(c) and (d) to apply, the consumer must have expressly consented to the provision of an interim service or an agreement on an

alternative arrangement, and not as part of a standard form of agreement formulated by a CSP for the purposes of section 479 of the Act.

Section 12 Who must supply a legacy service to a consumer

This section provides that for subsection 11(1):

- where the NBN CSP is also the legacy CSP, the NBN CSP must reconnect, or arrange for the reconnection of, the legacy service to the consumer's premises; or
- where:
 - the NBN CSP is not the legacy CSP; and
 - the legacy CSP has disconnected the consumer's legacy service in contravention of paragraph 7(2)(b)(ii)

the legacy CSP must, upon request by the consumer reconnect, or arrange for the reconnection of, the legacy service to the consumer's premises unless the legacy CSP had disconnected the consumer's legacy service for a valid reason.

Section 13 Conditions for the supply of a legacy service by a CSP

This section states that where the requirement to supply a legacy service applies:

- the amount payable by a consumer for the supply of a legacy service by a CSP mentioned in section 12, must not exceed the amount that would have applied under the consumer's contract for supply of their initial legacy service that was disconnected for the same period had that service not been disconnected;
- the non-price terms for the supply of the legacy service must be substantially similar to those that would have applied if the initial legacy service had not been disconnected; and
- the consumer cannot be charged for the cost of reconnection to the legacy service.

Part 4—Processes and timeframes for the reconnection and supply of legacy services and interim services

Section 14 Requirements for NBN CSP to advise a consumer and keep records

Subsection 14(1) provides the circumstances in which an NBN CSP is responsible for advising a consumer of the applicable timeframes for reconnecting a legacy service, and of the details of the fee and charging arrangements that will apply to the NBN CSP's proposed legacy service supply to the consumer. The NBN CSP must provide this advice as soon as possible after becoming aware of a matter mentioned in paragraph 11(1) and before gaining consent from the consumer for the supply of the legacy service.

Subsection 14(2) provides that, where an NBN CSP proposes to supply the consumer with an interim service, it must advise the consumer:

- the NBN CSP is required to supply a legacy service to the consumer's premises in accordance with subsection 11(1);
- the consumer can consent to the supply of an interim service as a substitute for the supply of a legacy service;

- of applicable timeframes for the supply of the interim service set out in section 18; and
- of the details of the key features and limitations, and the fee and charging arrangements, that will apply to the NBN CSP's proposed interim service supply to the consumer.

The advice must be given to the consumer as soon as possible after the NBN CSP becomes aware of either matter in subsection 11(1) and before gaining consent from the consumer for the supply of the interim service.

Subsection 14(3) provides that the amount payable by a consumer to an NBN CSP for the supply of an interim service must not exceed the amount that would have applied for supply of the NBN service for the same period had it been operational.

Subsection 14(4) provides that an NBN CSP may advise the consumer of the matters in subsection 14(1) before the NBN CSP has become aware of a matter in subsection 11(1).

Subsection 14(5) sets out the requirement for an NBN CSP to keep records to demonstrate its compliance with Parts 3 and 4 of the Standard with respect to each consumer.

Subsection 14(6) requires the NBN CSP to retain those records for a minimum of two years, and make the records available to the ACMA within five working days after receiving a written request from the ACMA.

Section 15 Commencement of timeframe for the reconnection of legacy services by an NBN CSP

This section has the effect that where an NBN CSP must reconnect, or arrange for the reconnection of, a legacy service to the consumer's premises within the timeframe specified in section 17, which period commences when the NBN CSP obtains the consumer's consent to reconnection.

Section 16 Commencement of timeframe for the reconnection of legacy services by a legacy CSP

This section has the effect that a legacy CSP must reconnect or arrange for the reconnection of the consumer's premises to a legacy service within the period specified in section 17, which period commences when the consumer requests reconnection.

Section 17 Specified timeframes for the reconnection of legacy services

This section provides that the timeframe requirements for NBN CSPs and legacy CSPs to reconnect a legacy service to a consumer under sections 15 and 16 are:

- 3 working days; or
- such other period as is reasonably necessary to reconnect the legacy service but which must exceed 5 working days, where:
 - the consumer's legacy service is located in an urban area; and
 - either or both of the following circumstances apply:
 - in order to reconnect the legacy service, the NBN CSP or the legacy CSP, must undertake field work or work at the relevant exchange;

- the legacy service is to be supplied over a Unconditioned Local Loop Service (ULLS); or
- such other period as is reasonably necessary to reconnect the legacy service but which must not exceed 10 working days, in circumstances where:
 - the consumer's premises is located in a major rural or minor rural or remote area;
 - either or both of the following circumstances apply:
 - in order to reconnect the legacy service, the NBN CSP or the legacy CSP, as the case may be, must undertake field work or work at the relevant exchange;
 - the legacy service is to be supplied over a ULLS; or
- such other period as is reasonably necessary to reconnect the legacy service but which must not exceed 15 working days, in circumstances where:
 - the NBN CSP is not the legacy CSP and a port of the consumer's telephone number back from the NBN CSP to the legacy CSP is required; and
 - under the *Local Number Portability Code C540:2013*, the Category A process does not apply to the port.

Section 18 Timeframes for the supply of an interim service by an NBN CSP

Subsection 18(1) sets out the timeframe requirements that the NBN CSP must meet where a consumer has consented to the supply of an interim service. The NBN CSP must supply the interim service to the consumer within:

- 3 working days after consent where the consumer is located in an urban area;
- 4 working days after consent where the consumer is located in a major rural area; or
- 6 working days after consent where the consumer is located in a minor rural or remote area.

Subsection 18(2) provides that an NBN CSP is exempt from the requirement in subsection 18(1) where the consumer's NBN service becomes operational prior to the supply of the interim service in accordance with subsection 18(1).

Section 19 Timeframes for the continued supply of a legacy service or an interim service by an NBN CSP

This section provides that where an NBN CSP supplies a legacy or interim service in accordance with the requirements under Part 3, it must continue to do so until the first to occur of the following:

- the consumer is supplied with an operational service by the NBN CSP;
- the contract to supply an NBN service between the consumer and the NBN CSP expires;
- that contract has otherwise been terminated for a valid reason; or

- where the service is a legacy service, the date on which Telstra is required to complete managed disconnection of the premises of that legacy service together with other premises in that area in accordance with the migration plan.

Section 20 Timeframes for the continued supply of a legacy service by a legacy CSP

Subsection 20(1) provides that where a legacy CSP supplies a legacy service, it must continue to supply that service at the consumer's premises until the first to occur of the following:

- the consumer notifies the legacy CSP that the NBN CSP has successfully supplied an operational NBN service to that consumer;
- the relevant contract between the consumer and the legacy CSP has terminated for a valid reason; or
- the date on which Telstra is required to complete managed disconnection of the premises together with other premises in that area in accordance with the migration plan.

Subsection 20(2) provides that a consumer must be able to exit a contract for the supply of a legacy service when the consumer notifies the legacy CSP that the NBN CSP has successfully supplied an operational NBN service to that consumer or where the consumer notifies the NBN CSP that the legacy service is otherwise no longer required.

Part 5—Other consumer protections in relation to NBN services

Section 21 Circumstances where an NBN CSP must not charge a consumer for an NBN service

Subsection 21(1) provides where an NBN CSP supplies a legacy service or an interim service to a consumer in accordance with Parts 3 and 4, the NBN CSP must not charge the consumer for their NBN service until it is operational.

Subsection 21(2) provides that if the NBN CSP promptly provides a refund or credit to the consumer for an amount specified in a bill issued to the consumer for their NBN service which was later found to be not operational, it is not in contravention of subsection 21(1).

Section 22 Requirements regarding a consumer's telephone number

Subsection 22(1) provides that where an NBN CSP supplies a legacy service to a consumer, it must ensure that the consumer can continue to use the telephone number previously used for their legacy service at the same address where:

- the legacy service supplied to the consumer includes a voice telephony service;
- that voice telephony service uses a public number declared portable under the numbering plan; and
- the consumer has rights of use to that telephone number.

Subsection 22(2) provides an exception to subsection 22(1) where the consumer expressly agrees to relinquish their legacy telephone number.

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

Subsection 23(1) applies 20 working days after the expiration of a timeframe referred to in subsection 11(1) and sets out the circumstances where an NBN CSP must prepare a plan directed at ensuring that the consumer is provided with an operational NBN service as soon as possible.

Subsection 23(2) provides that a copy of the plan prepared by the NBN CSP in accordance with subsection 23(1), must be sent to the consumer within 2 working days of its being prepared.

Subsection 23(3) sets out the minimum requirements for the plan prepared under subsection 23(1). The plan must include:

- a diagnosis of the issue that has caused the NBN service to be not operational;
- the steps required to remediate the issue and establish an operational NBN service;
- the timeframe for completing the required remedial work;
- any compensation that will be offered to the consumer; and
- contact details that the consumer can use to gain updates on the completion of the remedial work.

Subsection 23(4) provides if a further 20 working days pass after the expiration of the 20 working days mentioned in subsection 23(1), and 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 20 working day period.

Subsection 23(5) sets out the matters that the technical audit must identify, being:

- why the plan mentioned in subsection 23(1) did not result in the establishment of an operational NBN service;
- the steps that are required to remediate the issue and establish an operational NBN service as soon as possible; and
- the measures that can be instituted to avoid similar problems in other cases.

Subsection 23(6) provides that an NBN CSP is not required to comply with subsections 23(1) and 23(4) where it determines on reasonable grounds that the reason why the NBN service is not operational is due to an issue on the consumer's side of the boundary of the telecommunications network

Subsection 23(7) sets out the requirement for NBN CSPs, when subsection 23(1) or (4) applies, to keep records that are sufficient to demonstrate compliance with the applicable subsection for a minimum of 2 years and to make the records available to the ACMA within 5 working days after receiving a written request from the ACMA.

Part 6—Reasonable assistance

Section 24 Reasonable assistance to enable the supply of legacy services

Subsection 24(1) states that section 24 applies to:

- an NBN CSP or legacy CSP (the **first CSP**) who supplies a legacy service to a consumer under Parts 3 and 4;
- a person (the **second person**) mentioned in paragraph 4(a) who:
 - is involved (directly or indirectly) in the supply of the legacy service mentioned in paragraph 24(1)(a); and
 - has a direct contractual relationship with the first CSP; and
- a person (the **third person**) mentioned in paragraph 4(a) who:
 - is not the first CSP or the second person;
 - is involved (directly or indirectly) in the supply of the legacy service;
 - does not have a direct contractual relationship with the first CSP; and
 - has a direct contractual relationship with the second person; and
- a person (the **other person**) mentioned in paragraph 4(a) who is not the first CSP, the second person or the third person and who is involved (directly or indirectly) in the supply of the legacy service.

Subsection 24(2) provides that the persons mentioned in subsection 24(1) must cooperate with each other to ensure that the consumer is reconnected to a legacy service as soon as possible and at least within the timeframes specified in section 17.

Subsections 24(3) to (5) impose requirements on the persons mentioned in subsection 24(1) to provide reasonable assistance to supply legacy services, including:

- The second person must provide reasonable assistance to the first CSP at the request of the first CSP, for the purpose of the first CSP complying with the requirements of Parts 3 and 4: subsection 24(3).
- Where subsection 24(2) applies and the second person requires the assistance of the third person to meet its obligations under that provision, the third person must provide reasonable assistance to the second person at the request of the second person: subsection 24(4).
- Where the assistance of the other person is required to enable the first CSP, the second person or the third person to meet its obligations under this section, the other person must provide reasonable assistance to the person mentioned in paragraph 4(a) who has requested that assistance (the **requesting person**) provided that the requesting person has a direct relationship with the other person: subsection 24(5).

Subsection 24(6) states that a person who is required to provide reasonable assistance under section 24, must not fail or delay to take reasonable actions to cooperate nor withhold or

delay the provision of reasonable assistance because there has been no agreement on the payment of costs from another person mentioned in the section.

Subsection 24(7) provides that a person who has agreed to pay reasonable costs associated with the provision of reasonable assistance under the section must not bill those costs to the consumer.

Section 25 Reasonable assistance regarding the supply of NBN services

Subsection 25(1) states that section 25 applies to:

- an NBN CSP (the **first CSP**) seeking to supply an NBN service to a consumer;
- a person (the **second person**) mentioned in paragraph 4(a) who:
 - is involved (directly or indirectly) in the supply of the NBN service; and
 - has a direct contractual relationship with the first CSP; and
- a person (the **third person**) mentioned in paragraph 4(a) who:
 - is not the first CSP or the second person;
 - is involved (directly or indirectly) in the supply of the NBN service;
 - does not have a direct contractual relationship with the first CSP; and
 - has a direct contractual relationship with the second person; and
- a person (the **other person**) mentioned in paragraph 4(a) who is not the first CSP, the second person or the third person and who is involved (directly or indirectly) in the supply of the NBN service.

Subsection 25(2) provides that all persons mentioned in subsection 25(1) must cooperate with each other to expedite the supply of an operational NBN service to the consumer.

Subsection 25(3) states that the second person must provide reasonable assistance to the first CSP at the request of the first CSP, to enable the first CSP to comply with its obligations under Part 2 and Part 5 in relation to the supply of an operational NBN service to the consumer.

Subsection 25(4) provides that where subsection 25(3) applies and the second person requires the assistance of the third person to meet its obligations under that provision, the third person must provide reasonable assistance to the second person at the request of the second person.

Where the assistance of the other person is required to enable the first CSP, the second person or the third person to meet its obligations under the section, subsection 25(5) states that the other person must provide reasonable assistance to the person mentioned in paragraph 4(a) who has requested that assistance (the **requesting person**) provided that the requesting person has a direct relationship with the other person.

Subsection 25(6) requires that a person who must provide reasonable assistance under section 25 must not fail or delay to take reasonable actions to cooperate nor withhold or delay the provision of reasonable assistance under the section because there has been no agreement on the payment of costs from another person mentioned in section 25.

Subsection 25(7) prohibits a person who has agreed to pay reasonable costs associated with the provision of reasonable assistance under section 25 from passing on such costs to the consumer.

Section 26 Nomination of contact persons

Section 26 outlines the requirements for CSPs and carriers mentioned in paragraph 4(a) to:

- nominate one or more contact persons responsible for the coordination of activities for the provision of reasonable assistance;
- notify the relevant CSPs and, where applicable, carriers, of an email address, or other method whereby they can contact the nominated contact person, or to make enquiries about, or request, reasonable assistance under Part 6;
- ensure that the inbox for the email address or other method of contact is monitored each working day;
- ensure that all enquiries and requests for reasonable assistance received by the nominated contact person are responded to as soon as practicable; and
- if a telecommunications industry body has established a register for the purpose of Part 6, notify the industry body of the nominated contact persons within 2 working days of making that nomination, and of any changes to the information notified regarding the nominated contact persons within 2 working days of the information being changed.