



Telecommunications (Payphones) Determination 2022

I, PAUL FLETCHER, Minister for Communications, Urban Infrastructure, Cities and the Arts, make the following determination.

Dated 29 March 2022

PAUL FLETCHER

Minister for Communications, Urban Infrastructure, Cities and the Arts

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Part 1—Preliminary

1 Name

This instrument is the *Telecommunications (Payphones) Determination 2022*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	1 April 2022	1 April 2022

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under subsections 12ED(1), 12EE(1), 12EE(6), 12EF(1), 12EG(1) and 12EH(1) of the *Telecommunications (Consumer Protection and Service Standards) Act 1999*.

4 Simplified outline of this instrument

- This instrument sets out standards, benchmarks and rules to be complied with by a primary universal service provider in relation to payphones.
- Part 2 sets out payphone performance standards that must be complied with by a primary universal service provider in relation to:
 - (a) the characteristics, supply and reliability of payphones carriage services;
 - (b) the supply, installation or maintenance of a payphone;
 - (c) maximum timeframes for the supply, installation or maintenance of a payphone;
 - (d) maximum timeframes to rectify a payphone or payphone carriage service fault or service difficulty.
- Part 3 sets out payphone performance benchmark standards and minimum performance benchmarks. While performance benchmark standards do not

need to be complied with in every case, a primary universal service provider must meet or exceed the minimum benchmark.

- Part 4 sets out the rules on:
 - (a) the places and areas where payphones are to be located;
 - (b) the requirements for lodging an eligible payphone request;
 - (c) the criteria a primary universal service provider must follow, including the net social benefit factors, in determining when it is appropriate for a payphone to be installed or removed from a particular place or area; and
 - (d) the need for a primary universal service provider to keep, make available, and provide to the ACMA, a payphone register.
- Part 5 sets out rules in relation to public consultation on the location or removal of payphones, including:
 - (a) the public consultation process a primary universal service provider must follow before it installs new payphones or removes existing payphones; and
 - (b) the notification requirements in relation to the installation, relocation and removal of payphones.
- Part 6 sets out the requirements for a primary universal service provider to have in place and manage an accessible public complaints process with regard to a final decision to install or remove a payphone, including ensuring the complainant is aware of avenues to object through the ACMA.

5 Interpretation

- Note 1: A number of expressions used in this instrument are defined in the Act, including the following:
- (a) payphone (section 9C);
 - (b) payphone carriage service (section 5);
 - (c) primary universal service provider (section 5);
 - (d) universal service obligation (section 5).
- Note 2: The expression ‘business day’ is defined in section 2B of the *Acts Interpretation Act 1901*.
- Note 3: Unless the contrary intention appears, expressions used in this instrument and in the *Telecommunications Act 1997* have the same meaning in this instrument as in the *Telecommunications Act 1997*.

(1) In this instrument:

Act means the *Telecommunications (Consumer Protection and Service Standards) Act 1999*.

ACMA means the Australian Communications and Media Authority.

adequate mobile phone coverage means that there is handheld terrestrial mobile phone coverage at street level in the relevant place or area.

category 1 payphone location is a place or area in Australia that:

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- (a) is of a type described in Division 1 of Schedule 1;
 - (b) does not have a payphone;
 - (c) has demonstrated community support for the location of a payphone at that place or area; and
 - (d) a primary universal provider has determined that the place or area is commercially viable for the purpose of the installation of a payphone.

For the purposes of paragraph (d), the provider must assess whether a place or area is **commercially viable** as if arrangements for the types of payphone calls and associated payphone call charges in place as at 2 August 2021 are still in effect.

category 2 payphone location is a place or area in Australia that:

- (a) is of a type described in column 1 of the table at Division 2 of Schedule 1;
- (b) either:
 - (i) if a radius is specified in column 2 of the table at Division 2 of Schedule 1, there is no payphone located within the area of the specified radius; or
 - (ii) if no radius is specified, there is no payphone at that place or area;
- (c) has demonstrated community support for the location of a payphone at that place or area; and
- (d) the relevant primary universal provider has determined that projected revenues from a payphone located at the place or area will cover the projected depreciation and maintenance costs of providing and maintain a payphone on an annual basis.

For the purposes of paragraph (d), the provider must assess whether the **projected revenues** will cover **projected depreciation and maintenance costs** as if arrangements for the types of payphone calls and associated payphone call charges in place as at 2 August 2021 are still in effect.

category 3 payphone location is a place or area in Australia that:

- (a) is of a type described in column 1 of the table at Division 3 of Schedule 1;
- (b) either:
 - (i) if a radius is specified in column 2 of the table at Division 3 of Schedule 1, there is no payphone located within the area of the specified radius; or
 - (ii) if no radius is specified, there is no payphone at that place or area; and
- has demonstrated community support for the location of a payphone at that place or area.

eligible payphone request is a request for the location of a payphone:

- (a) at a place or area that is any of the following:
 - (i) a category 1 payphone location;
 - (ii) a category 2 payphone location;
 - (iii) a category 3 payphone location;
- (b) made by a duly authorised person on behalf of representative bodies;
- (c) contains the eligible payphone request requirements; and
- (d) none of the following apply:

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- (i) an eligible payphone request has been made with respect to the same place or area within the period commencing two years prior to the date of the request;
 - (ii) a payphone was removed, in accordance with this instrument, from the place or area subject of the request, within the period commencing two years prior to the date of the request.

Note: 'Representative bodies' for this purpose is defined at subsection 5(3).

eligible payphone request requirements means all of the following requirements:

- (a) the name of the person making the request;
- (b) the name of the persons, local government body or authority or institution on whose behalf the request is made;
- (c) details of the means by which the person or persons, local government body or authority can be contacted;
- (d) details of the site, or sites, at the place or area at which it is requested that a payphone or payphones be located;
- (e) reasons why a payphone should be located at the place or area; and
- (f) the type of payphone requested.

Note: An example of the type of payphone that can be requested is a TTY payphone.

existing payphone site means a site at which a payphone is located.

external plant facility has the same meaning as in the *Telecommunications (Customer Service Guarantee) Standard 2011*, as in force from time to time.

extreme weather conditions has the same meaning as in the *Telecommunications (Customer Service Guarantee) Standard 2011*, as in force from time to time.

Note: In relation to the reference to the *Telecommunications (Customer Service Guarantee) Standard 2011*, see subsection 589(2) of the *Telecommunications Act 1997*.

fault or service difficulty means a fault or condition that affects the useability of the payphone or payphone carriage service, and includes, but is not limited to:

- (a) the absence of a dial tone or ring tone;
 - (b) inability to make a call due to:
 - (i) the individual payphone;
 - (ii) a fault with the payphone carriage service supplied to that payphone; or
 - (iii) a fault with the connection to the individual payphone;
 - (c) disruption to communications because of excessive noise levels on the line; or
 - (d) repetition of service cut offs;
- but does not include a non-critical fault.

Example: An example of a non-critical fault may include a flickering light in a phone box; damage to a phone booth; or damage to a payphone where at least one payment mechanism is still operating and available to a user to make a call (where payment is required for the type of call).

final decision means a decision made by a primary universal service provider to install a payphone at a site or a decision to remove a payphone from a site that is made in accordance with this instrument.

insufficient network infrastructure capacity means a network that does not have any of the following:

- (a) spare cable/fibre and network elements;
- (b) lead-ins;
- (c) the availability of real-time charge signalling.

intended final decision date means the date on which a primary universal service provider has specified it intends to provide a final decision as part of required removal notice information or required location notice information (as applicable).

local government body means a government body or agency that has primary responsibility for the provision of local government or municipal services within the area within which the site for the proposed location or removal of the payphone is located.

local newspaper, in relation to a payphone location proposal or payphone removal proposal, means a newspaper which is in circulation where the payphone that is the subject of the proposal is located.

major rural area means an urban centre or other recognised community grouping with a population greater than 2,500 but less than 10,000 people.

minimum performance benchmarks has the meaning given by section 14.

minor rural area means an urban centre, locality or other recognised community grouping with a population of greater than 200 but not more than 2,500 people.

new payphone location has the meaning given by section 16.

new payphone site means a payphone site that is not an existing payphone site.

notifiable payphone location persons means the following persons:

- (a) the relevant local government body; and
- (b) the owners or occupiers of each residential and business premises within 50 metres of the proposed site.

notifiable payphone removal persons means the following persons:

- (a) the relevant local government body; and
- (b) the owner of the land from which it is proposed the payphone will be removed; and
- (c) if the land from which it is proposed the payphone will be removed is occupied by a person other than the owner, the occupier.

not readily accessible means a site within:

- (a) close proximity to an external plant facility; or
- (b) range of a radio distribution system.

payment mechanism means any of the following:

- (a) coin;
- (b) phonecard;
- (c) credit card;
- (d) operator assistance;
- (e) reverse charge calling.

payphone benchmark standards means the standards set out at in Division 2 of Part 3.

payphone complaint means an expression of disagreement about a final decision of the primary universal provider on the location or removal of a payphone made to the primary universal provider through at least one of the means provided in accordance with subsection 39(1) within the payphone complaint timeframe, but does not include:

- (a) any general request for information or other assistance to enable a person to make a payphone complaint; or
- (b) an issue that is the subject of legal action.

payphone complaint process means a process a primary universal provider has developed for the resolution of payphone complaints, including the means by which a person can make a complaint and how a person can obtain information on making a complaint.

payphone complaint timeframe is the timeframe within which a person can make a payphone complaint, being 20 business days from when the primary universal service provider provided its written notification of the final decision.

payphone complaint reference number means the unique reference number a primary universal service provider allocates to a payphone complaint.

payphone performance standards are the standards that are set out at Division 2 of Part 2.

payphone removal consultation document is a public consultation document prepared and published by the primary universal provider in relation to a payphone removal proposal, where removal of the payphone would mean there would be no other payphones remaining at the site at which the payphone (which is the subject of the removal proposal) is located.

payphone location proposal means a proposal by a primary universal service provider to install a payphone at a site.

payphone objection timeframe means the timeframe within which a person who is dissatisfied with the primary universal service provider's response to their payphone complaint regarding the final decision on the removal of a payphone, may lodge an objection with the ACMA, being 10 business days from when the primary universal service provider provided its written response to the complaint.

payphone register means a record which may be kept in an electronic format, containing a description of the location of existing payphone sites, and includes (at a minimum) the following details for each description:

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- (a) the location of the payphone site, such as the address of the payphone site or other similar description of the location;
 - (b) the State or Territory in which the payphone site is located;
 - (c) the postcode of the area in which the payphone site is located;
 - (d) the Australian Bureau of Statistics Statistical Local Area of the area in which the payphone site is located;
 - (e) the latitude and longitude of the payphone site;
 - (f) the number of payphones at the payphone site;
 - (g) the next available payphone and radial distance to that payphone;
 - (h) the payphone unique identifier code for each payphone at that site; and
 - (i) the type of payphone(s) at that site.

payphone removal proposal means a proposal by a primary universal service provider to remove a payphone from a site at which the primary universal service provider must ensure that a payphone is located in accordance with this instrument.

payphone site includes a site at which one or more payphones are located or proposed to be located and means either:

- (a) an existing payphone site; or
- (b) a new payphone site.

public authority means:

- (a) the Commonwealth or a State or Territory; or
- (b) a Commonwealth, State or Territory authority, including:
 - (i) a police force or service; and
 - (ii) a fire service; and
 - (iii) an ambulance service; and
 - (iv) a local government authority.

remote area means a geographic area which is not an urban area, major rural area or minor rural area.

required location notice information means all of the following:

- (a) description of the site where the primary universal service provider proposes to install the payphone;
- (b) a description of the exact location on the site upon which the primary universal provider proposes to install the payphone;
- (c) the type of payphone the primary universal service provider proposes to install;
- (d) the date by which a primary universal service provider intends to make a final decision regarding the proposal;
- (e) an explanation of how the recipient of the notification, or any other person, make a submission to the primary universal service provider regarding the proposal before a final decision is made;
- (f) details of how a person may request, and obtain, further information by telephone, post or email regarding the proposal from a primary universal provider.

required removal notice information means all of the following:

- (a) a description of the site, including the street address, if applicable, from which the payphone is proposed to be removed;
- (b) information about the other payphone(s), as applicable to the payphone removal circumstance;
- (c) where a payphone removal would result in no payphone remaining at the site, details of the nearest payphone to the payphone which is proposed to be removed; or
- (d) where a payphone removal would result in at least one payphone remaining at the site, details of the other payphones which are located at the relevant site;
- (e) the date by which a primary universal service provider intends to make a final decision regarding the proposal;
- (f) an explanation of how a person may make a submission to the primary universal service provider during the consultation period;
- (g) details of how a person may request, and obtain, further information by telephone, post or email regarding the proposal from a primary universal service provider.

rural area means an area that is either a major rural area or a minor rural area.

site means a place or area which is no greater than 10 square meters.

social benefit factors refers to all of the following matters that must be taken into account in making a determination under Division 3 of Part 4:

- (a) the use or potential use of the payphone in the event of a natural disaster, including consideration if the payphone site or proposed new payphone location (as applicable) is located in an area that is at an elevated risk of natural disasters;
- (b) the commercial viability of installing or continuing to maintain the payphone, including all reasonable steps that may be taken to minimise the costs of maintaining the payphone at the new payphone location or payphone site (as applicable);
- (c) actual or forecast call usage patterns for the payphone, including consideration of actual or forecasted calls in respect of a TTY payphone (if applicable);
- (d) whether the actual or projected revenues from the payphone will cover the actual or forecast depreciation and maintenance costs of maintaining the payphone on an annual basis;
- (e) the extent to which funding (if any) provided to a primary universal service provider to install or maintain the payphone, including any payments made to a primary universal service provider by the Commonwealth, will contribute to covering the depreciation and maintenance costs of maintaining the payphone on an annual basis;
- (f) all the circumstances relating to the installation of a payphone at the new payphone location, or the removal of a payphone at the payphone site (as applicable), including:

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- (i) the benefit to the local community arising from installing a payphone at the new payphone location or maintaining the payphone at the payphone site (as applicable);
 - (ii) the extent to which there is adequate mobile phone coverage in the relevant area where the payphone is proposed to be installed or removed (as applicable);
 - (iii) in the event mobile phone coverage in the relevant area where the payphone is proposed to be installed or removed is inadequate - the extent to which a payphone is needed for the purposes of assisting with responding to an emergency;
 - (g) any guidelines prepared by the ACMA that detail the format and methodology for assessing whether the installation or removal of a payphone at the new payphone location or the payphone site (as applicable) would deliver a net social benefit to the local community.

For the purposes of paragraphs (b) and (d), the provider must determine **commercial viability** and whether the **projected revenues** will cover **projected depreciation and maintenance costs** as if arrangements for the types of payphone calls and associated payphone call charges in place as at 2 August 2021 were still in effect.

Note: Reasonable steps to minimise the costs of maintaining a payphone may include the installation of a robust phone or other steps to reduce the risk of vandalism or misuse of a payphone.

teletypewriter means a telephone typewriter which allows communication to be typed after the call is connected, enabling people with a hearing or speech impairment to use telecommunications equivalent to voice telephony.

TTY payphone means telephone typewriter payphone.

TTY payphone location is a place or area if it contains a TTY payphone that was supplied by a primary universal provider at the place or area.

urban area means an urban centre with a population equal to or greater than 10,000 people.

urban centre is a reference to a geographic area defined as an urban centre in accordance with criteria used by the Australian Bureau of Statistics for the most recent Australian Census.

- (2) For the purposes of the definitions, 'category 1 payphone location', 'category 2 payphone location' and 'category 3 payphone location' at subsection 5(1), 'community support' for the relevant place or area may be demonstrated, but is not limited to circumstances where the place or area is the subject of an eligible payphone request.
- (3) For the purposes of the definition 'eligible payphone request' at subsection 5(1), 'representative bodies' refer to any of the following:
 - (a) five or more individuals who would be directly affected by the operation of a payphone at the place or area that is the subject of the request;

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- (b) 100 or more individuals who reside in the vicinity of the proposed new payphone site or otherwise have a demonstrated interest in the location of the payphone at the place or area that is the subject of the request;
 - (c) the local government body with responsibility for the place or area that is the subject of the request; or
 - (d) an authority or institution of the State or Territory in which the place or area that is the subject of the request is located.
- (4) For the purposes of paragraphs (d) of the definitions for ‘category 1 payphone location’ and ‘category 2 payphone location’, a primary universal provider must make a determination within 60 business days of the provider receiving an eligible payphone request.

6 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Part 2—Payphone performance standards

Division 1—Compliance with payphone performance standards

7 Primary universal service provider must comply with standards

- (1) A primary universal service provider must comply with the payphone performance standards, unless:
 - (a) a law of the Commonwealth or a State or Territory prevents the provider from complying with a payphone performance standard; or
 - (b) there are circumstances beyond the control of the provider that prevent it from complying with a payphone performance standard.
- (2) For the purposes of paragraph (1)(b) above, circumstances beyond the control of a primary universal service provider include (but are not limited to) the following circumstances:
 - (a) damage to a primary universal service provider's facility used in relation to the payphone or supply of a payphone carriage service that is not caused by the provider;
 - (b) a natural disaster that:
 - (i) causes mass outages of payphones or payphone carriage services; and
 - (ii) restricts the supply, installation and maintenance of a payphone or rectification of a fault or service difficulty;
 - (c) extreme weather conditions that:
 - (i) cause mass outages of payphones or payphone carriage services; and
 - (ii) restrict the supply, installation and maintenance of a payphone or rectification of a fault or service difficulty;
 - (d) a primary universal service provider is requested by a public authority to provide emergency communications services to assist in emergency action, and the provision of those services restricts the supply, installation and maintenance of a payphone or rectification of a fault or service difficulty;
 - (e) a primary universal service provider is prevented from supplying, installing and maintaining a payphone or rectifying a fault or service difficulty, because the provider is unable to obtain lawful access to land or a facility;
 - (f) where a third party fails to provide sufficient power to operate a payphone which prevents a primary universal service provider from complying with a payphone performance standard;
 - (g) the modification, maintenance or upgrade of a facility or network that is used to supply the payphone or a payphone carriage service, where such modification, maintenance or upgrade work occurs in connection with the migration of services to the national broadband network; and
 - (h) the need to move staff or equipment to an area affected by circumstances beyond the control of the provider.
- (3) A primary universal service provider is not exempt from compliance with a payphone performance standard unless a primary universal service provider has procedures in place to ensure that it does not rely on the exemption in circumstances that are not beyond its control.

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- (4) If a primary universal service provider was prevented from complying with a payphone performance standard as a result of:
- (a) a law of the Commonwealth, a State or a Territory; or
 - (b) circumstances beyond the control of the primary universal service provider;
- the provider must ensure it complies with the payphone performance standard from the time that the provider is no longer prevented from complying with the payphone performance standard by the law or the circumstances (as the case may be).

Division 2—Payphone performance standards

8 Payphone performance standard – characteristics, supply and reliability of payphone carriage services

- (1) A payphone carriage service must:
- (a) allow for the making of automated national and international voice grade telephone calls 24 hours per day (even if the payphone supplying the payphone carriage service is located at a site that does not have public access 24 hours per day);
 - (b) provide access to the emergency call service, which when called by a person, gives the person access to an emergency call person, free of charge 24 hours per day (even if the payphone supplying the payphone carriage service is located at a site that does not have public access 24 hours per day);
 - (c) provide access to operator assistance for directory assistance, national and international call connection and reporting of service difficulties 24 hours per day (even if the payphone supplying the payphone carriage service is located at a site that does not have public access 24 hours per day); and
 - (d) meet:
 - (i) the guidelines set out in the *Accessibility of Payphones Industry Guideline G630:2020* prepared by the Communications Alliance Ltd; or
 - (ii) if replacement guidelines regarding the accessibility of payphones are published by the Communications Alliance Ltd, or a successor representative body, those guidelines as existing from time to time.

Note: In relation to subparagraph (1)(d), see subsection 589(2) of the *Telecommunications Act 1997*.

- (2) This section does not apply in respect of a payphone or payphone carriage service that is, at the relevant time, experiencing a fault or service difficulty.

9 Payphone performance standard – supply, installation or maintenance of a payphone

- (1) The standards set out at subsection (2) apply in relation to the supply, installation or maintenance of a payphone.
- (2) A payphone must:
- (a) provide operating instructions, with the option of selecting text in languages other than English;
 - (b) be able to be modified to include a teletypewriter attachment; and
 - (c) meet:
 - (i) the guidelines set out in the *Accessibility of Payphones Industry Guideline G630:2020* prepared by the Communications Alliance Ltd; or
 - (ii) if replacement guidelines regarding the accessibility of payphones are published by the Communications Alliance Ltd, or a successor representative body, those guidelines as existing from time to time.

Note: In relation to subparagraph (2)(c), see subsection 589(2) of the *Telecommunications Act 1997*.

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- (3) For the purposes of the standard at paragraph (2)(a), a primary universal service provider must ensure that a payphone provides operating instructions in at least three languages, which must include any three of the following:
- (a) Mandarin;
 - (b) French;
 - (c) Spanish;
 - (d) Japanese;
- unless the primary universal service provider is satisfied, having regard to the needs of the community, that it would be more appropriate to select one or more other languages.

10 Payphone performance standard – maximum timeframes for the supply, installation and maintenance of a payphone

Where a primary universal service provider is under an obligation to ensure that a payphone is located at a site or at a new payphone location in order to comply with the rules about the location of payphones set out in this instrument, it must do so no later than 3 months after the day at which a payphone is required to be located at the site, unless the circumstances in column 1 in the table applies, in which case a provider must comply with the relevant timeframe specified in column 2.

Timeframes within which a primary universal service provider must install a payphone		
Item	Column 1	Column 2
	Circumstances	Timeframe
1	The payphone is located in a minor rural area; and either: (a) the site is not readily accessible to telephone network infrastructure; or (b) there is insufficient network capacity to effect service.	No later than 6 months after the date on which a payphone is first required to be located at the site.
2	The payphone is located in a remote area; and either: (a) the site is not readily accessible to telephone network infrastructure; or (b) there is insufficient network capacity to effect service.	No later than 9 months after the date on which a payphone is first required to be located at the site.

11 Payphone performance standard – maximum timeframes to rectify a payphone or payphone carriage service fault or service difficulty

- (1) A primary universal service provider must rectify a fault or service difficulty relating to a payphone or payphone carriage service located in an area specified at an item in column 1 of the table within the timeframe set out in column 2 for that item.

Timeframes within which a primary universal service provider must rectify a fault or service difficulty

Item	Column 1	Column 2
	Location	Timeframe
1	An urban area	10 business days
2	A major rural area or a minor rural area	15 business days
3	A remote area	20 business days

- (2) For the purposes of subsection (1):
- (a) the timeframes in column 2 commence on the day after the primary universal provider receives, or it produces, a report about the fault or service difficulty (whichever occurs first);
 - (b) a report about a fault or service difficulty can include an automated or electronic report that is generated for the purpose of making the primary universal service provider, or an employee or agent of the primary universal service provider, aware of a fault or service difficulty;
 - (c) if a primary universal service provider receives or produces a report that a payphone or a payphone carriage service is affected by a fault or service difficulty on a day that is not a business day, or after 5 pm on a business day – the timeframes commence on the next business day.

Part 3—Payphone benchmark standards and benchmarks

Division 1—Compliance with payphone benchmark standards

12 Primary universal service provider must comply with standards

- (1) A primary universal service provider must comply with the payphone benchmark standards, unless:
 - (a) a law of the Commonwealth or a State or Territory prevents the provider from complying with a payphone benchmark standard; or
 - (b) there are circumstances beyond the control of the provider that prevent the provider from complying with a payphone benchmark standard.
- (2) For the purposes of paragraph (1)(b), circumstances beyond the control of a primary universal service provider include (but are not limited to) the following circumstances:
 - (a) damage to a primary universal service provider's facility that is used in relation to the payphone or the payphone carriage service that is not caused by the provider;
 - (b) a natural disaster that:
 - (i) causes mass outages of payphones or payphone carriage services; and
 - (ii) restricts rectification of a fault or service difficulty;
 - (c) extreme weather conditions that:
 - (i) causes mass outages of payphones or payphone carriage services; and
 - (ii) restricts rectification of a fault or service difficulty;
 - (d) a primary universal service provider is requested by a public authority to provide emergency communications services to assist in emergency action, and the provision of those services restricts rectification of a fault or service difficulty;
 - (e) a primary universal service provider is prevented from rectifying a fault or service difficulty, because the provider is unable to obtain lawful access to land or a facility;
 - (f) where a third party fails to provide sufficient power to operate a payphone which prevents a primary universal service provider from complying with a payphone benchmark standard;
 - (g) the modification, maintenance or upgrade of a facility or network that is used to supply the payphone or a payphone carriage service, where such modification, maintenance or upgrade work occurs in connection with the migration of services to the national broadband network;
 - (h) the need to move staff or equipment to an area affected by circumstances beyond the control of the provider.
- (3) A primary universal service provider is not exempt from compliance with a payphone benchmark standard unless the primary universal service provider has procedures in place to ensure that it does not rely on the exemption in circumstances that are not beyond its control.

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- (4) If a primary universal service provider was prevented from complying with a payphone benchmark standard as a result of:
- (a) a law of the Commonwealth, a State or a Territory; or
 - (b) circumstances beyond the control of the primary universal service provider;
- the provider must ensure it complies with the payphone benchmark standard from the time that the provider is no longer prevented from complying with the payphone benchmark standard by the law or the circumstances (as the case may be).

Division 2—Payphone benchmark standards

13 Payphone benchmark standards – maximum timeframe to rectify a payphone or payphone carriage service fault or service difficulty

- (1) The payphone benchmark standard for a primary universal service provider to rectify a fault or service difficulty relating to a payphone or payphone carriage service located in an area specified at an item in column 1 of the table, is the timeframe set out in column 2 for that item.

Timeframes within which a primary universal service provider must rectify a fault or service difficulty		
Item	Column 1	Column 2
	Location	Timeframe
1	An urban area	1 business day
2	A rural area	2 business days
3	A remote area	3 business days

Note: See subsections 12EE(10) and (11) of the Act.

- (2) For the purposes of subsection (1):
- (a) the timeframes in column 2 commence on the day after the primary universal provider receives, or it produces, a report about the fault or service difficulty (whichever occurs first);
 - (b) a report about a fault or service difficulty can include an automated or electronic report that is generated for the purpose of making the primary universal service provider aware of a fault or service difficulty;
 - (c) if a primary universal service provider receives or produces a report that a payphone or a payphone carriage service is affected by a fault or service difficulty on a day that is not a business day, or after 5 pm on a business day – the timeframes commence on the next business day.

Division 3—Payphone performance benchmarks

14 Minimum performance benchmarks

- (1) The table in this section sets out the minimum performance benchmarks a primary universal service provider must comply with in relation to a payphone benchmark standard set out in section 13:
- (a) for a payphone located in an area specified at an item in column 1 – the minimum benchmark is the percentage specified in column 2 for that item;
 - (b) the benchmark in column 2 is the minimum percentage of the total number of times that a primary universal service provider is required to comply with the payphone benchmark standard in section 13 each financial year.

Performance Benchmarks		
Item	Column 1	Column 2
	Area	Timeframe
1	An urban area	90 per cent
2	A rural area	90 per cent
3	A remote area	80 per cent

Note: See subsections 12EE(6) and (9) of the Act.

Part 4—Rules about location of payphones

Division 1—Payphone locations

15 Places and areas at which payphones must be located

- (1) A primary universal service provider must ensure that:
 - (a) a payphone is located, and continues to be located, at the following places and areas:
 - (i) at each site at which a payphone supplied by a primary universal service provider was located immediately prior to the date of commencement of this instrument;
 - (ii) at a site within each new payphone location;
 - (iii) if a payphone is relocated from an existing payphone site that is at a place or area of a type described in Division 1 of Schedule 1 to a new payphone site at the same place or area, at the new payphone site; and
 - (b) a TTY payphone is located, and continues to be located, at a place or area that is a TTY payphone location.
- (2) The requirement at subsection (1) is subject to:
 - (a) the rules set out at section 20 regarding the installation of payphones;
 - (b) the rules set out at section 21 regarding the circumstances in which a payphone may be removed from a payphone site; and
 - (c) the substitution of a payphone supplied by the primary universal service provider with a payphone supplied by the Commonwealth.
- (3) To avoid doubt, the obligation to ensure that a payphone is located at a site or payphone location in accordance with subsection (1) applies to the primary universal service provider even if the primary universal service provider enters into an arrangement with another provider for the supply, management, operation or maintenance of a payphone by that other provider at the site or payphone location.

16 Meaning of new payphone location

A ***new payphone location*** means a place or area that becomes any of the following:

- (a) a category 1 payphone location;
- (b) a category 2 payphone location; or
- (c) a category 3 payphone location.

Division 2—Eligible payphone requests

17 Information about making an eligible payphone request

- (1) A primary universal service provider must provide all of the following on its website:
 - (a) a mechanism for eligible payphone requests to be made to the provider;
 - (b) details of the address to which an eligible payphone request may be posted;
 - (c) the eligible payphone request requirements.
- (2) If a person makes an eligible payphone request to a primary universal service provider and the provider considers that the place or area that is the subject of the request is not a new payphone location, the provider must notify the person in writing of the following:
 - (a) the reasons that the provider does not consider the place or area to be a new payphone location; and
 - (b) an explanation that unless the place or area specified in an eligible payphone request is a new payphone location, the provider is not required to consider installing a payphone at the place or area in response to the request.

Note: An eligible payphone request is a request for the location of a payphone that meets certain requirements (see section 5).

18 Notification of response to an eligible payphone request

If a person makes an eligible payphone request to a primary universal service provider and the provider considers the place or area that is the subject of the request to be a new payphone location, but the provider considers that it is not required to install a payphone at the place or area:

- (a) the provider must notify the person in writing of the reason that it considers that it is not required to install a payphone at that place or area; and
- (b) the notification under paragraph (a) must be made at least 42 days prior to the primary universal service provider making its final decision on an eligible payphone request for a payphone to be located in a particular place or area.

19 Notification of response to a payphone request that is not an eligible payphone request

- (1) Where a person makes a request for the installation of a payphone to a primary universal service provider, and the provider considers that the request is not an eligible payphone request, the provider must notify the person in writing of the reasons why the provider does not consider the request to be an eligible payphone request.
- (2) A notification given under subsection (1) must include a statement informing the person that if a request for the installation of a payphone is not an eligible payphone request, the provider is not required to consider installing a payphone in response to the request.

Division 3—Installation and removal of payphones

20 Installation of payphones

- (1) A primary universal service provider may only install a payphone at a new payphone site, if the provider has complied with the rules in relation to the process for public consultation on the location of payphones set at Division 2 of Part 5.
- (2) A primary universal service provider is not required to install a payphone at a new payphone location if:
 - (a) the primary universal service provider has complied with Division 2 of Part 5 with respect to a proposal to install a payphone at the new payphone location; and
 - (b) either:
 - (i) installing and maintaining a payphone at the new payphone location would not deliver a net social benefit to the local community; or
 - (ii) a primary universal service provider cannot reasonably install and operate a payphone at the new payphone location.
- (3) In determining whether installing and maintaining a payphone at a new payphone location would not deliver a net social benefit to the local community, a primary universal service provider must only have regard to the social benefit factors.
- (4) In determining whether a payphone can reasonably be installed and operated at a new payphone location, a primary universal service provider may only have regard to:
 - (a) whether it has taken all reasonable steps required to obtain relevant approvals for the installation of a payphone; and
 - (b) whether it has taken all reasonable steps required to obtain relevant approvals for access to the new payphone location; and
 - (c) the extent to which it is reasonably practicable to provide power to the new payphone location; and
 - (d) the safety of the public, users of the payphone and the provider's employees and agents.
- (5) The obligation to install a payphone at a site within a new payphone location commences immediately after the primary universal service provider has:
 - (a) provided written notification of its final decision, made in accordance with this instrument, to locate a payphone at a particular site within the payphone location; and
 - (b) finalised any complaints made about that final decision.

21 Removal of payphone from site

- (1) If a primary universal service provider must ensure that at least one payphone is located at a site in order to comply with section 15, a payphone may only be removed from a payphone site if:

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- (a) the decision to remove the payphone has been made in accordance with the rules in relation to the process for public consultation on the removal of a payphone set out in Divisions 3 and 4 of Part 5; and
 - (b) one or more of the following criteria applies:
 - (i) maintaining the payphone at the payphone site would not deliver a net social benefit to the local community;
 - (ii) there is demonstrated community support for the removal of the payphone from the payphone site;
 - (iii) the primary universal service provider cannot continue to reasonably operate the payphone at the payphone site; or
 - (iv) if the existing payphone site is at a place or area of a type described in Division 1 of Schedule 1—a payphone is to be relocated to a new payphone site within that place or area.

Note: The requirement in paragraph (a) does not apply to the removal of a payphone in circumstances where payphone removal arises as a direct result of the property owner of the site at which the payphone is located having withdrawn its consent to retain the installation of the payphone at the site.

- (2) Subsection (1) does not apply where a primary universal service provider temporarily removes a payphone from a site in order to:
 - (a) upgrade the payphone;
 - (b) repair or replace the line connecting the payphone;
 - (c) connect the payphone to another network over which the primary universal service provider will be supplying payphone carriage services to that payphone;
 - (d) install an equivalent or enhanced payphone;
 - (e) undertake significant repairs to the payphone, where such repairs can only be undertaken off-site; or
 - (f) allow for the development of a construction site or civil works at the reasonable request of a third party.
- (3) In determining whether maintaining a payphone at the payphone site would not deliver a net social benefit to the local community, a primary universal service provider must only have regard to the social benefit factors.
- (4) In determining whether a payphone can continue to reasonably be operated at a payphone site, a primary universal service provider must only have regard to the following matters:
 - (a) subject to subsection (6), whether it continues to hold, or is able to obtain, relevant approvals for the operation of a payphone at the payphone site; and
 - (b) subject to subsection (6), whether it continues to hold, or is able to obtain relevant approvals for access to the payphone site; and
 - (c) the safety of the public, users of the payphone and the provider's employees and agents.
- (5) For the avoidance of doubt, subsection (1) applies to a primary universal service provider even if a payphone is operated by another provider on behalf of the primary universal service provider.

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- (6) In assessing under subsection (4) whether a payphone can continue to be reasonably be operated at a payphone site, the primary universal service provider must take all reasonable steps required to obtain the relevant approvals specified under paragraphs (4)(a) and (4)(b).

Division 4—Payphone Register

22 Primary universal service provider must keep and make available payphone register

- (1) A primary universal service provider must maintain a payphone register in relation to the payphone sites located in each area for which the provider is the primary universal service provider.
- (2) A primary universal service provider must make the payphone register available to the public on its website.

23 Primary universal service provider must provide register to the ACMA

A primary universal service provider must provide the ACMA, in a format specified by the ACMA, with a copy of the payphone register for each area for which it is the primary universal service provider within three months from the commencement of this instrument and every three months thereafter.

Part 5—Rules about process for public consultation on location or removal of payphones

Division 1—Preliminary

24 Application of this Part

- (1) If a primary universal service provider makes a payphone location proposal, the provider must comply with Division 2 of this Part.
- (2) If a primary universal service provider makes a payphone removal proposal, the provider must comply with:
 - (a) either:
 - (i) Division 3 of this Part where, if that removal were to occur, no payphone would remain at the site; or
 - (ii) Division 4 of this Part where, if that removal were to occur, at least one payphone would remain at the site; and
 - (b) Division 5 of this Part.
- (3) Where a primary universal service provider proposes to relocate a payphone from one site (current site) to another site (new site), the primary universal service provider must comply with:
 - (a) Division 2 of this Part in relation to a payphone location proposal concerning the new site; and
 - (b) Division 3 of this Part in relation to a payphone removal proposal, where:
 - (i) that removal would result in there being no payphone at the current site; and
 - (ii) the new site is located more than 200 metres from the current site; or
 - (c) Division 4 of this Part, in relation to a payphone removal proposal where that proposed removal would result in:
 - (i) at least one payphone remaining at the current site; or
 - (ii) no payphones at the current site, but the new site is located within 200 metres of the current site; and
 - (d) Division 5 of this Part.

Division 2—Location of a payphone

25 Notification of payphone location proposal

- (1) Subject to subsection (3), a primary universal service provider must provide notification of a payphone location proposal in accordance with this section.
- (2) If a primary universal service provider makes a payphone location proposal, the provider must:
 - (a) provide written notification of the payphone location proposal to notifiable payphone location persons, which includes the required location notice information; and
 - (b) ensure the written notification is provided at least 42 days prior to the intended final decision date; and
 - (c) publish the written notification at least 42 days prior to the intended final decision date:
 - (i) on its website; and
 - (ii) in a local newspaper (so far as this is reasonably practicable);
 - (d) ensure a notification under paragraph (c) includes:
 - (i) the required location notice information; and
 - (ii) an invitation to persons to make written submissions to the primary universal service provider regarding the payphone location proposal before a final decision is made; and
 - (iii) an explanation of how a person may make such a submission; and
 - (e) ensure a notification under paragraph (c)(ii) is maintained on the website until six months after the date of the final decision regarding the installation of the payphone.
- (3) The notification obligations set out in this section do not apply where:
 - (a) a payphone is proposed to be installed at a site in accordance with a commercial agreement between the primary universal service provider and the owner of the site at which the payphone is proposed to be installed; and
 - (b) the site at which the payphone is proposed to be installed is located at:
 - (i) an airport;
 - (ii) a transport hub;
 - (iii) a commercial retail site (including a shopping centre);
 - (iv) a campus of a tertiary education institution;
 - (v) a correctional facility; or
 - (vi) a hospital or other medical facility.

26 Final decision—payphone location proposal

- (1) Subject to subsection 25(3), a primary universal service provider may only make a final decision to install a payphone at a site if the primary universal service provider has given notification of a payphone location proposal in relation to the installation of a payphone at the site in accordance with section 25.

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- (2) A final decision in relation to a payphone location proposal may not be made earlier than the intended final decision date.
 - (3) In making a final decision regarding a payphone installation proposal a primary universal service provider must take into account all the submissions received regarding the proposal.

27 Final decision notification requirements—payphone location proposal

- (1) As soon as practicable after a primary universal service provider has made a final decision regarding a payphone location proposal, the primary universal service provider must provide written notification of the final decision to:
 - (a) the relevant local government body; and
 - (b) any person who made a submission regarding the proposal before the final decision was made.
- (2) A notification under subsection (1) must include all of the following:
 - (a) a statement of the final decision;
 - (b) the reasons for the final decision;
 - (c) an explanation of how the final decision differs from the proposal, if at all; and
 - (d) details of how a person who disagrees with the final decision may make a complaint to the relevant contact person at the primary universal service provider regarding the location of the payphone.
- (3) As soon as practicable after a primary universal service provider has made a final decision regarding a payphone location proposal, the provider must publish and maintain on its website, the final decision and the information required under subsection (2), for a period of six months after the date of the final decision.

Division 3—Payphone removal—no payphone remaining at site

28 Application of this Division

- (1) This Division applies:
- (a) to a payphone removal proposal where a primary universal service provider proposes to remove a payphone from a site and, if that removal were to occur, no payphone would remain at the site from which the payphone is removed; or
 - (b) where a primary universal service provider proposes to relocate a payphone from one site (current site) to another site (new site) if:
 - (i) that removal would result in there being no payphone at the current site; and
 - (ii) the new site is located more than 200 metres from the current site.

Note: Where the new site is located within 200 metres of the current site, see Division 4.

- (2) This Division does not apply where a payphone removal arises as a direct result of the property owner of the site at which the payphone is located having withdrawn its consent to retain the installation of the payphone at the site.

Note: This Division will also not apply to temporary payphone removals (see subsection 21(2)).

29 Notification of payphone removal proposal – no payphone remaining at site

In the circumstances where no payphone would remain at the site at which the payphone (which is the subject of the payphone removal proposal) is located, a primary universal service provider must:

- (a) provide written notification of the payphone removal proposal to notifiable payphone removal persons, which includes the required removal notice information;
- (b) ensure a notification under paragraph (a) is displayed:
 - (i) on the payphone or payphone cabinet which is proposed to be moved; or
 - (ii) where subparagraph (i) is not reasonably practicable, near the payphone which is proposed to be removed;
- (c) ensure a notification under paragraph (a) is provided at least 42 days prior to the intended final decision date;
- (d) publish a notification of the payphone removal proposal:
 - (i) on its website; and
 - (ii) in a local newspaper (so far as this is reasonably practicable);
- (e) ensure a notification under paragraph (d):
 - (i) includes the required removal notice information; and
 - (ii) is published at least 42 days prior to the intended final decision date; and
- (f) ensure a notification under paragraph (d)(ii) is:
 - (i) published prominently on the first page of the primary universal service provider's section of its website relating to payphones; and
 - (ii) maintained on the website until six months after the date of the final decision regarding the removal of the payphone.

30 Requirements of display notice

- (1) A notice displayed under subparagraph 29(b)(i) must be:
 - (a) fixed to the payphone itself or the structure supporting the payphone; and
 - (b) clearly visible to a person using the payphone; and
 - (c) printed in indelible ink.
- (2) A notice displayed under subparagraph 29(b)(ii) must be:
 - (a) clearly visible to the public and placed within the line of sight of a person using the payphone; and
 - (b) printed in indelible ink.

31 Requirements of payphone removal consultation document

- (1) Except in the circumstances where there would be at least another payphone remaining at the site at which the payphone (which is the subject of the removal) is located, a primary universal service provider is required to:
 - (a) prepare a payphone removal consultation document; and
 - (b) publish a copy of the payphone removal consultation document on the first page of the section of its website relating to payphones at least 42 days prior to the intended final decision date; and
 - (c) ensure that a copy of the document remains accessible on its website for the consultation period until six months after the date of the final decision.
- (2) A payphone removal consultation document must:
 - (a) comply with any guidelines prepared by the ACMA that set out the format for such a document; and
 - (b) include the following information:
 - (i) a primary universal service provider's reasons for the payphone removal proposal including facts upon which the proposal is based;
 - (ii) to the extent that it is available, and it is reasonable for a primary universal service provider to disclose it - evidence proving those facts;
 - (iii) a statement about which criteria under paragraph 21(1)(b) are considered to apply to the proposed payphone removal;
 - (iv) details of the means by which a complaint may be made by a person about a final decision concerning the proposed removal of the payphone; and
 - (v) notification, for the purposes of the *Privacy Act 1988*, that should a person make a complaint, the primary universal service provider may be required to disclose the complainant's personal information (as contained in the complaint) to the ACMA if there is an objection to a proposed payphone removal that is the subject of a final decision.

Division 4—Payphone removal—at least one payphone remaining at site

32 Application of this Division

- (1) This Division applies:
 - (a) to a payphone removal proposal where a primary universal service provider proposes to remove a payphone from a site and, if that removal were to occur, one or more payphones would remain at that site; or
 - (b) where a primary universal service provider proposes to relocate a payphone from one site (current site) to another site (new site) and either:
 - (i) there will still be at least one payphone at the current site following the proposed removal; or
 - (ii) there will be no payphone at the current site following the proposed removal, but the new site is within 200 metres of the current site.

Note: Where the new site is located more than 200 metres from the current site, see Division 3.

- (2) This Division does not apply where a payphone removal arises as a direct result of the property owner of the site at which the payphone is located having withdrawn its consent to retain the installation of the payphone at the site.

Note: This Division will also not apply to temporary payphone removals (see subsection 21(2)).

33 Notification of payphone removal proposal—at least one payphone remaining at the site

- (1) In the circumstance where at least one payphone would be remaining at the site at which the payphone (which is the subject of the payphone removal proposal) is located, a primary universal service provider must:
 - (a) provide written notification to notifiable payphone removal persons of the payphone removal proposal which includes the following information:
 - (i) the required removal notice information;
 - (ii) an invitation to persons to make written submissions to the primary universal service provider regarding the payphone removal proposal before a final decision is made; and
 - (iii) an explanation of how a person may make such a submission;
 - (b) ensure a notification under paragraph (a) is provided at least 42 days prior to the intended final decision date; and
 - (c) publish a notification of the payphone removal proposal prominently on the first page of its section of the website relating to payphones at least 42 days prior to the intended final decision date.
- (2) A notification made under paragraph (1)(c) must include all of the following:
 - (a) the required removal notice information;
 - (b) an invitation to persons to make written submissions to the primary universal service provider regarding the payphone removal proposal before a final decision is made;
 - (c) an explanation of how a person may make such a submission.

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- (3) A notification under paragraph (1)(c) must be maintained on the website until six months after the date of the final decision regarding the payphone removal proposal.

Division 5—Final decision—payphone removal proposal

34 Final decision—payphone removal proposal

- (1) A primary universal service provider may only make a final decision to remove a payphone from a site if the primary universal service provider has given notification of a payphone removal proposal in relation to the removal of a payphone from the site in accordance with the rules set out at Division 3 or 4, as applicable.
- (2) A final decision in relation to a payphone removal proposal may not be made earlier than the intended final decision date.
- (3) In making a final decision regarding a payphone removal proposal a primary universal service provider must take into account all the submissions received regarding the proposal.

35 Final decision notification requirements—payphone removal proposal

- (1) As soon as practicable after a primary universal service provider has made a final decision regarding a payphone removal proposal, the primary universal service provider must provide written notification of the final decision to:
 - (a) notifiable payphone removal persons; and
 - (b) any person who made a submission regarding the proposal prior to the final decision.
- (2) A notification under subsection (1) must include all of the following:
 - (a) a statement of the final decision;
 - (b) the reasons for the final decision, including information about the number of submissions received by the primary universal service provider regarding a payphone removal proposal and a summary of the content of those submissions;
 - (c) an explanation of how the final decision differs from the payphone removal proposal, if at all;
 - (d) details of how a person who disagrees with the final decision may:
 - (i) make a complaint to the primary universal service provider regarding the removal of the payphone; and
 - (ii) provided that a complaint under subsection (d)(i) has been finalised by the primary universal service provider, make an objection to the ACMA about the final decision.
 - (e) the specified timeframe within which the person may make an objection to the ACMA about the final decision, being 10 business days.

Note: Where the ACMA makes a Direction under either subsections 12EI(2) or (3) of the Act, a primary universal service provider must comply with a Direction to either not remove a payphone (where the payphone has not been removed) or to supply and install a payphone at a particular location within a specified period (where a payphone has already been removed).

- (3) As soon as practicable after a primary universal service provider has made a final decision regarding a payphone removal proposal, the provider must publish and

maintain on its website, the final decision and the information required under subsection (2), for a period of six months after the date of the final decision.

Division 6—Other rules in relation to the location or removal of a payphone

36 Responding to request for further information

- (1) Where a person requests further information from a primary universal service provider regarding a payphone location proposal (for which Division 2 applies) or a payphone removal proposal (for which Division 3 or 4 applies) prior to the intended final decision date, as relevant, the provider must:
 - (a) provide a response to the person's request within 14 days;
 - (b) if the person requests a response in writing – respond in writing to the person within 14 days.
- (2) In relation to a request for further information regarding a payphone location proposal (for which Division 2 applies), the primary universal service provider's response under subsection (1) must include the following:
 - (a) the reasons for the proposal, including details of the alleged facts upon which the proposal is based and a statement about which criteria under paragraph 20(2)(b) are considered to apply to the proposed payphone location; and
 - (b) to the extent that it is available, and it is reasonable for the primary universal service provider to disclose it, evidence to substantiate the reasons for the proposal.

Part 6—Rules about resolution of complaints regarding the location or removal of payphones

Division 1—Payphone complaint process

37 Primary universal service provider must develop payphone complaint process

- (1) A primary universal service provider must develop and maintain a process for the resolution of payphone complaints concerning final decisions on the installation or removal of payphones (*payphone complaint process*).
- (2) If a complaint is received orally by the primary universal provider, the provider must ensure that the details of the complaint are recorded in writing as soon as practicable after the oral complaint was made.
- (3) The payphone complaint process is not required to provide for the resolution of:
 - (a) a complaint in relation to a payphone that is provided by a primary universal service provider other than for the purpose of complying with the universal service obligation; or
 - (b) a complaint in relation to a payphone that is not the responsibility of a primary universal service provider.
- (4) For the purposes of paragraph (3)(a), a payphone is to be taken to be provided by a primary universal service provider for the purposes of complying with the universal service obligation even if the primary universal service provider has entered into, or will enter into an arrangement, with another provider for the supply, management, operation or maintenance of the payphone.

38 Complaint process must be made publicly available

- (1) A primary universal service provider must make details of the payphone complaint process publicly available and accessible to all persons who may wish to make a complaint about a final decision on the location or removal of a payphone, including by publishing details of the payphone complaint process prominently on the first page of the primary universal service provider's section of its website relating to payphones.
- (2) Details of the payphone complaint process must include the following:
 - (a) the payphone complaint timeframe;
 - (b) for complaints relating to a final decision on the removal of a payphone – the payphone objection timeframe;
 - (c) the form in which a complaint may be made (including, oral or written and electronic or non-electronic); and
 - (d) the contact details or address to which a complaint may be sent or directed, as the case may be.

Division 2—Receiving payphone complaints

39 Manner of receiving payphone complaints

- (1) A primary universal service provider must provide low cost or free, and flexible means by which a payphone complaint may be made orally or in writing by any person who wishes to make a payphone complaint about a final decision regarding the location or removal of a payphone.
- (2) Subject to subsection (1), a primary universal service provider must not impose any fees, charges or penalties in relation to the receipt or handling of a payphone complaint upon a person who has made, or may wish to make, a payphone complaint.
- (3) A primary universal service provider must:
 - (a) maintain freecall general service contact numbers and multi-lingual enquiry lines by which persons who may wish to make a written complaint can obtain information as to the means by which a complaint may be made; and
 - (b) maintain general service contact numbers and multi-lingual enquiry lines to enable persons who may wish to make an oral complaint to do so.
- (4) If a person requests assistance in making a payphone complaint, a primary universal service provider must provide that person with any reasonable assistance that the primary universal service provider is able to provide to enable that person to make a complaint which may include (without limitation):
 - (a) advice on the internal processes the primary universal service provider undertakes in determining a payphone location or removal; and
 - (b) advice on any additional information from the public that would assist the primary universal service provider in considering a payphone complaint.

40 Acknowledge receipt of complaint

- A primary universal service provider must:
- (a) allocate a complaint reference number to each payphone complaint it receives; and
 - (b) provide a person who has made a payphone complaint with an acknowledgement of receipt of the complaint, including the complaint reference number, within 5 business days of receiving the complaint.

Division 3—Resolving complaints

41 Principles for the resolution of payphone complaints

A primary universal service provider must investigate and seek to resolve all payphone complaints in an efficient, fair and timely way.

42 Response to payphone complaint

- (1) A primary universal service provider must respond to a payphone complaint in writing within 20 business days of receiving the complaint.
 - (2) The response must contain:
 - (a) the complaint reference number;
 - (b) if the primary universal service provider is reasonably satisfied no further action is required to investigate or address the payphone complaint - the reasons for this;
- Example: A reason why the primary universal service provider may be reasonably satisfied that no further action is required to be taken is where the payphone complaint lacks sufficient information to enable further investigation or resolution, or where the primary universal service provider has previously received and addressed a payphone complaint relating to the same final decision.
- (c) if the primary universal service provider proposes to take further action to investigate or otherwise seek to resolve a complaint – what further actions it proposes to take and the reasons why; and
 - (d) if the complaint relates to a final decision to remove a payphone – a statement that the person who made the payphone complaint may apply to the ACMA in writing for a review of the provider’s final decision if they are dissatisfied with the provider’s response to their complaint.

Note: The ACMA will only receive applications for review of a final decision to remove a payphone if the primary universal service provider has responded to a complaint (or has advised its reasons for not investigating or addressing the payphone complaint) in relation to that decision.

- (3) If, under paragraph (2)(b), the primary universal service provider proposes to take further action to investigate or resolve a complaint, the provider must continue to keep the person who made the complaint reasonably informed of the steps that are being taken, and the outcome of those steps.

43 Retention of records and provision of information to the ACMA

- (1) A primary universal service provider must retain all materials collected and recorded in relation to a payphone complaint for a period of at least two years following the resolution of the complaint.
- (2) The types of materials referred to in subsection (1) include (without limitation):
 - (a) each complaint received by the primary universal service provider in relation to the final decision (either in writing or the written record of the oral complaint);
 - (b) the primary universal service provider’s response(s) to the complaints or reasons why it did not investigate or address the payphone complaint;

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- (c) the primary universal service provider's reasons for installing or removing a payphone (if applicable);
 - (d) copies of relevant notifications and payphone consultation document (if applicable);
 - (e) details of the public consultation conducted in relation to a payphone removal proposal (if applicable); and
 - (f) details of the primary universal service provider's final decision.
- (3) If the ACMA notifies a primary universal service provider that it has received an objection to a final decision to remove a payphone and the ACMA intends to conduct a review, the provider must give the ACMA all relevant material relating to the payphone complaint within 10 business days of receiving the ACMA's notice.

44 Payphone must not be removed if decision is subject to a complaint or objection

A primary universal service provider must not remove a payphone which is the subject of a final decision unless:

- (a) 20 business days have lapsed from when the primary universal service provider gave its written notification of its final decision to remove the payphone and no complaints were received by a primary universal service provider during that period;
- (b) in the case where one or more complaints have been made to the primary universal service provider about its final decision to remove the payphone, the payphone objection timeframe has lapsed for each complainant and no application has been made to the ACMA in respect of the primary universal service provider's final decision; or
- (c) where the ACMA has completed its review of the primary universal service provider's decision (in response to a written notification from a person that they object to the removal of the payphone), and the ACMA has provided its final decision to the objection, and that decision is to allow the payphone to be removed.

Note 1: The payphone objection timeframe is 10 business days (see section 5).

Note 2: Section 12EI of the Act provides if a primary universal service provider has made a decision to remove a payphone from a particular location, the ACMA has the power to give directions to the provider about the removal of payphone in certain circumstances.

Note 3: The ACMA is expected make a decision in relation to an objection to the removal of a payphone within 45 days from the notification of the objection. However, this timeframe may be extended by the ACMA.

Schedule 1—Places and areas

Division 1—Category 1 payphone locations

Each of the following places and areas are places and areas for the purposes of determining a category 1 payphone location:

- (a) retail centres;
- (b) entertainment venues;
- (c) transport hubs;
- (d) health and community facilities;
- (e) residential communities in cities and towns with average or high level of home telephone connection;
- (f) residential communities (including caravan parks and holiday units) in cities and towns with low home phone connection;
- (g) industrial or commercial areas;
- (h) small villages and towns (including holiday areas) with a permanent population of 200 or more persons;
- (i) places and areas within state or national parks, where there are permanent facilities and regular park staff visits;
- (j) small service centres on highways and major roads in rural and remote areas where there is adequate mobile phone coverage;
- (k) small service centres on highways and major roads in rural and remote areas where there is inadequate mobile phone coverage; and
- (l) small remote communities, including Indigenous outstations.

Note: 'Category 1 payphone location' is defined in section (5).

Division 2—Category 2 payphone locations—eligible places and areas

This table provides the places and areas (column 1) and corresponding specified radiuses (column 2) for the purposes of determining a category 2 payphone location.

Category 2 payphone locations		
Item	Column 1	Column 2
	Places and areas	Specified radius
1	Retail Centres	1 km
2	Entertainment venues	1 km
3	Transport hubs	1 km
4	Health and Community facilities	1 km
5	Residential communities in cities and towns with average or high level of home telephone connection	2 km
6	Residential communities (including caravan parks and holiday units) in cities and towns with low home phone connection	1 km
7	Industrial or commercial areas	2 km
8	Small villages and towns (including holiday areas) with a permanent population of 200 or more persons	40 km
9	Places and areas within state or national parks, where there are permanent facilities and regular park staff visits	40 km
10	Small service centres on highways and major roads in rural and remote areas where there is adequate mobile phone coverage	100 km
11	Small service centres on highways and major roads in rural and remote areas where there is inadequate mobile phone coverage	100 km
12	Small remote communities, including Indigenous outstations with a permanent population of 20 or more adults or a total population of 50 or more persons	Radius not specified

Note: 'Category 2 payphone location' is defined in section (5).

Division 3—Category 3 payphone locations—eligible places and areas

This table provides the places and areas (column 1) and corresponding specified radiuses (column 2) for the purposes of determining a category 3 payphone location.

Category 3 payphone locations		
Item	Column 1	Column 2
	Places and areas	Specified radius
1	Residential communities (incl. caravan parks and holiday units) in cities and towns with low home phone connection	1 km
2	Small villages and towns (incl. holiday areas) with a permanent population of 200 or more persons	40 km
3	Places and areas within state or national parks, where there are permanent facilities and regular park staff visits	100 km
4	Small service centres on highways and major roads in rural and remote areas where there is adequate mobile phone coverage	250 km
5	Small service centres on highways and major roads in rural and remote areas where there is inadequate mobile phone coverage	200 km
6	Small remote communities, including Indigenous outstations with a permanent population of 20 or more adults or a total population of 50 or more persons	Radius not specified

Note: 'Category 3 payphone location' is defined in section (5).