**EXPLANATORY STATEMENT**

Approved by the Australian Communications and Media Authority

*Telecommunications Act 1997*

***Telecommunications (Customer Communications for Outages) Industry Standard Variation 2025 (No. 1)***

**Authority**

The Australian Communications and Media Authority (the **ACMA**) has made the *Telecommunications (Customer Communications for Outages) Industry Standard Variation 2025 (No.1)* (the **Standard** **Variation**) under subsection 125AA(1) of the *Telecommunications Act 1997* (the **Act**) and subsection 33(3) of the *Acts Interpretation Act 1901* (the **AIA**), and in accordance with subsection 5(3), subsection 5(5) and section 6 of the *Telecommunications (Customer Communications for Outages Industry Standards) Direction 2024* (the **Direction**).

The Minister for Communications (the **Minister**) has the power under subsection 125AA(4) of the Act to direct the ACMA to:

1. determine a standard under subsection 125AA(1) of the Act that:
	1. applies to participants in a specified section of the telecommunications industry; and
	2. deals with one or more specified matters relating to the telecommunications activities of those participants; and
2. do so within a specified period.

The Direction was given to the ACMA by the Minister under subsection 125AA(4) of the Act and commenced on 28 August 2024. Section 5 of the Direction requires the ACMA to determine industry standards under subsection 125AA(1) of the Act that deals with information to be provided, or made available, by carriers and carriage service providers (**CSPs**) relating to significant local outages and major outages that impact a telecommunications network used to supply carriage services to end-users.

The objectives and contents of the standard required to be made are set out in section 6 of the Direction.

The ACMA made the *Telecommunications (Customer Communications for Outages) Industry Standard 2024* (the **Standard**) consistent with the requirements in sections 5 and 6 of the Direction in relation to major outages. It was registered on 14 November 2024 and commenced on 31 December 2024. Subsection 5(4) of the Direction (the second phase of the Direction) requires that a standard in relation to significant local outages is to be determined by 30 April 2025 and commence in full at the earliest practical opportunity and no later than 30 June 2025. The Standard Variation has been made to fulfil the requirements of the second phase of the Direction. The Standard Variation will commence on 30 June 2025.

Subsection 33(3) of the *Acts Interpretation Act 1901* (the **AIA**) relevantly provides that where an Act confers a power to make a legislative instrument, the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument. Subsection 5(5) of the Direction provides that the ACMA may vary the standards required by section 5 of the Direction as it considers necessary from time to time, provided that the standards, as varied, comply with the Direction.

**Purpose and operation of the instrument**

The Standard Variation varies the Standard and imposes obligations on carriers and CSPs when there has been a significant local outage. The Standard Variation requires both carriers and CSPs to notify and communicate information about significant local outages to various persons including, in the case of a carrier, to other carriers and CSPs, relevant stakeholders and the public. The Standard Variation requires CSPs to notify and communicate with the public and end-users. The purpose of the notifications and communications is to support and inform those who may be affected by a significant local outage or a major outage, particularly end-users.

The Standard Variation requires all notifications and communications about a significant local outage in a telecommunications network used to supply ‘relevant’ carriage services to be timely, up to date, in an easily accessible form (including for customers with disability or who may be linguistically diverse) and made through a mix of public and direct communication channels. It also seeks to ensure that communications to end-users by CSPs about a significant local outage will identify, as appropriate, methods for end-users to seek real-time or near real-time assistance.

**Operation**

Sections 1 to 3 set out the full title of the instrument, information about the commencement of the instrument and the authority under which the instrument is made. Section 4 refers to Schedule 1 which sets out the variations to the Standard.

A provision-by-provision description of the Standard Variation is set out in the notes at **Attachment A**.

The Standard Variation is a disallowable legislative instrument under the *Legislation Act 2003* (the **LA**).

**Documents incorporated by reference**

The Standard Variation incorporates or refers to the following Acts and legislative instruments (including by the adoption of definitions), which are available free of charge on the Federal Register of Legislation (http://www.legislation.gov.au):

1. The Act,
2. The AIA,
3. The Direction,
4. TheLA, and
5. The Standard.

The Acts and the Direction 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 Standard Variation also incorporates the following documents:

1. The Remoteness Structure described as such in the Australian Statistical Geography Standard (ASGS), Edition 3, July 2021-June 2026, published by the Australian Bureau of Statistics.
2. The *Order to Establish the National Emergency Management Agency as an Executive Agency*.

Information about how to access the above instruments are set out in Notes in the Standard Variation where reference to those instruments first occurs. The instruments are incorporated as existing from time to time, in accordance with section 589 of the Act.

**Public 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 subsection 125AA(3), and sections 132, 133, 134 and 135 of the Act.

The ACMA consulted with Communications Alliance (being a body that represents the telecommunications industry), the Telecommunications Industry Ombudsman (TIO), the Australian Competition and Consumer Commission (ACCC), the Australian Communications Consumer Action Network (ACCAN) (being a body that represents the interests of consumers), industry stakeholders, consumer groups and the public on the making of the Standard Variation.

A targeted consultation process was undertaken with industry representatives and the Department of Infrastructure, Transport, Regional Development, Communications and the Arts (the **Department**) from 13 December 2024 to 13 January 2025 seeking feedback on early drafts of the proposed variations. Additional targeted consultation also took place following the public consultation process on proposed additional variations.

Between 12 February and 14 March 2025, the ACMA conducted a public consultation process, through the release of draft proposed variations to the Standard and a consultation paper on the ACMA’s website.

On 12 February 2025, in accordance with subsection 132(1) of the Act, the ACMA also published a notice in *The* *Australian* newspaper, being a newspaper circulating nationally. The notice stated that the ACMA had prepared a draft variation standard, advised that a copy could be accessed via the ACMA’s website and invited interested persons to give written comments by 14 March 2025.

The ACMA informed key stakeholders of the publication of the documents and invited comment on the draft variations to the Standard and on the issues set out in an accompanying consultation paper.

The ACMA received 17 submissions from a range of stakeholders including the telecommunications industry, consumer advocates, individual consumers and government agencies.

All non-confidential submissions were published on the ACMA website after the public consultation closed and before the Standard Variation was made.

The submissions provided a broad range of feedback on the draft proposed variations to the Standard and the ACMA considered all relevant issues raised by the submissions in the consultation process when making the Standard Variation. Key issues raised by stakeholders included the following:

* **Threshold limit for significant local outage –** some industry participants’ submissions indicated some concern with the threshold for significant local outage, noting that 1000 services in operation affected by the outage was too low, and could result in a significant number of notifications that could be unnecessary and could lead to notification fatigue. The concern was raised about the proposed inclusion of inner regional Australia in the scope of the definition noting that area is vast and should be excluded on the same rationale as major cities. The industry view was that many larger cities in inner regional Australia that experience an outage would have an alternate network to rely on.
* ACCAN, the TIO and some members of the public submitted that the threshold of 1000 was too high and could exclude some vulnerable remote communities.
* In response to these submissions:
* Changes were made to the definition of ‘significant local outage’. The changes include inserting an additional separate threshold for significant local outages that occur in remote and very remote Australia, and reducing the threshold of an outage from 1000 services in operation to 250. A threshold of 1000 services in operation remains for outages experienced in inner and outer regional Australia. The expected duration of the outage was also amended so that a significant local outage will only occur if, in the case of services affected in remote and very remote Australia, the outage is expected to be of a duration longer than 3 hours. In the case of services affected in inner and outer regional Australia, a significant local outage will only occur if the outage is expected to be of a duration longer than 6 hours.
* **Outages caused by natural disasters** – Submissions from industry, consumer advocates, and Government, indicated support for the inclusion of additional provisions for outages caused by natural disasters. Concerns were raised by industry that the definition of natural disaster required clarification, noting that a ‘significant coordinated response’ could be difficult to interpret. Some stakeholders suggested that the definition adopt a list of specific extreme weather events. Industry participant submissions expressed that the alternative provisions in the Standard that apply when natural disasters occur be broadened to capture outages caused by other force majeure events, where the cause was completely outside the control of the carrier.
* In response to these submissions:
* The ACMA has varied the definition of natural disaster to remove reference to ‘significant coordinated response’.
* **Smaller CSPs -** Some industry participant submissions raised concerns that the requirements in the Standard could pose a disproportionate impost on smaller CSPs. Smaller CSPs argued that the greater responsibility should be on carriers that operate networks rather than on CSPs that resell those services. Concerns were raised about the cooperation between carriers and CSPs through the notification process and the form in which notifications are sent to smaller CSPs (which can be difficult to understand).

In response to these submissions:

* Changes were made to the Standard to include an obligation on carriers that in notifying carriers or CSPs of an outage, the notifying carrier must do all things necessary to assist other carriers and CSPs to comply with their obligations under Part 2 of the Standard.
* **Accessibility -** ACCAN submitted that it had significant concerns about the adequacy of the accessibility requirements in the Standard for vulnerable end-users. ACCAN requested that the Standard include requirements that information about outages be provided to consumers in plain language and that the word ‘accessible’ in the Standard be replaced with the word ‘available’ where its intended meaning is not related to being accessible to people with disability.

In response to these submissions:

* Changes were made to the Standard to expand the definition of ‘easily accessible form’ to include reference to ‘plain language’ and to replace the word ‘accessible’ with appropriate alternative wording, where the use of the term ‘accessible’ was not in relation to access for a person with disability.

**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 with human rights set out in **Attachment B** has been prepared to meet that requirement.

**Attachment A**

**Notes to the *Telecommunications (Customer Communications for Outages) Industry Standard Variation 2025 (No. 1)***

**Section 1 Name**

This section provides for the instrument to be cited as the *Telecommunications (Customer Communications for Outages) Industry Standard Variation 2025 (No.1)* (the **Standard Variation**).

**Section 2 Commencement**

This section provides for the Standard Variation to commence on 30 June 2025.

**Section 3 Authority**

This section provides that the Standard Variation is made under subsection 125AA(1) of the *Telecommunications Act 1997* (the **Act**) and notes that it has been determined in accordance with subsection 5(3), subsection 5(5) and section 6 of the *Telecommunications (Customer Communications for Outages Industry Standards) Direction 2024* (the **Direction**). Subsection 5(3) of the Direction requires the ACMA to determine a standard under subsection 125AA(1) of the Act that deals with information to be provided, or made available, by carriers and carriage service providers relating to significant local outages that impact a telecommunications network used to supply carriage services to end-users. Subsection 5(5) of the Direction provides that the ACMA may vary a standard required by section 5 as it considers necessary from time to time, provided that the standard, as varied, complies with the Direction.

**Section 4 Variations**

This section provides that the *Telecommunications (Customer Communications for Outages) Industry Standard 2024* (the **Standard**) is varied in accordance with Schedule 1.

**Schedule 1 - Variations**

This schedule sets out the variations to the Standard.

**Item [1]** expands the legislative references in section 3 to include all of section 5.

**Item [2]** varies the application provision (section 4) of the Standard by amending references to ‘carriage services’ to refer to ‘relevant carriage services’. The term ‘relevant carriage services’ is defined at section 5 (see Item 4) as all carriage services excluding internet of things data-only services. An internet of things data-only service is also defined at section 5 (see Item 4). The term ‘carriage service’ is defined in section 7 of the Act as a service for carrying communications by means of guided and/or unguided electromagnetic energy.

The term ‘relevant carriage services’ is intended to limit the types of carriage services that fall within the scope of the Standard. For clarity, other services such as streaming services provided under over-the-top arrangements which are not themselves a carriage service but that use an existing carriage service are not covered by the Standard. Other streaming or pay-TV service arrangements would also not be covered even if provided under an arrangement that include bundled provision of a carriage service and the streaming service. If a customer is unable to use a streaming service because their underlying broadband service is suffering an outage, the outage of the broadband service is intended to be covered under the arrangements of the Standard. However, any outage that only impacts the pay-TV or streaming service alone is not intended to be an outage covered by the Standard.

**Item [3]** varies section 4 of the Standard by inserting ‘or a significant local outage’ in paragraphs 4(b) and (c). This change means the obligations under the Standard extend to both major outages and significant local outages.

**Item [4]** inserts some new definitions under section 5 of the Standard including: ABS Remoteness Structure, internet of things data-only service, internet of things devices, National Emergency Management Agency, plain language, regional Australia, relevant carriage service, remote Australia, and significant local outage.

**Item [5]** varies the definition of ‘easily accessible form’ in section 5 of the Standard by:

* deleting the term ‘accessible’ and replacing it with the word ‘available’
* including the requirement that the form of communicating, notifying and informing uses plain language
* deleting the term ‘special needs’ and replacing it with the term ‘accessibility requirements’.

**Item [6]** varies the definition of ‘major outage’ in section 5 of the Standard so that it applies only to relevant carriage services rather than all carriage services.

**Item [7]** varies the definition of ‘material change’ in section 5 by deleting the term ‘rectification’ and replacing it with the words ‘restoration of relevant carriage services affected, by’. This is to reflect that the term ‘rectify’ can signify that the root cause of an outage needs to be rectified before an outage is considered to be completely returned to the pre-outage state. The intention of the Standard is that it impose obligations that relate to the restoration of relevant carriage services affected by the outage. In many cases, temporary measures can be put in place for services to be restored for end-users while the root causes of an outage could take much longer to rectify.

**Item [8]** varies the definition of ‘natural disaster’ in section 5 of the Standard so that it takes the meaning of an emergency event caused by a natural hazard (such as a fire, flood, storm, cyclone or an earthquake) that causes, or is likely to cause, widespread disruption to a community and the provision of relevant carriage services. A note has been inserted to include examples of what widespread disruption to a community may be. This is not intended to be an exhaustive list. It is intended that this definition capture emergency events outside the control of the carrier, that would likely result in the requirement to issue emergency alert messages to end-users or other types of alerts, for example as part of a coordinated government response.

The intention of including separate provisions for outages caused by natural disasters is to prevent network congestion that may occur because of attempts to deliver emergency alert messaging on behalf of a state, territory or the Australian Government. This approach is also designed to direct the public to the websites of carriers and CSPs as a single source of truth about outages impacting services, and for coordinated messaging from state and territory governments to be able to focus the public’s attention on the specific matters of importance during a natural disaster. During an outage caused by a natural disaster, there is potential for messages to be queued (rather than delivered immediately) and then subsequently delivered to end-users once carriage services have been restored. Direct messaging that is not delivered immediately and instead provided later during or after the outage may not align with the current ‘facts on the ground’ during natural disasters and may cause confusion.

The natural disaster definition is not expected to be applied to all circumstances where there is a fire, flood, storm, cyclone or earthquake, but rather only to those events that have resulted in widespread disruption to a community and the provision of relevant carriage services has been impacted. For example, a storm that may have some localised damage would not be covered by the natural disaster arrangements as the storm may not have caused a widespread disruption to the community, and would be unlikely to require a state or territory government to issue an emergency alert notification.

**Item [9]** is a minor variation to the definition of ‘other media’ in section 5 of the Standard to insert the word ‘and’ between paragraphs (b) and (c) of the definition.

**Item [10]** varies the definition of ‘relevant stakeholders’ in section 5 by inserting ‘the National Emergency Management Agency’.

**Item [11]** varies the definition of ‘responsible carrier’ in section 5 of the Standard by inserting the words ‘or a significant local outage’. The variation makes it clear that the definition applies to a carrier that detects either a major outage or a significant local outage.

**Item [12]** repeals and substitutes the definition of ‘services in operation’ in section 5 of the Standard so that the definition now applies only to relevant carriage services and to both a significant local outage and a major outage.

**Item [13]** is a minor variation to the definition of ‘social media’ in section 5 of the Standard to delete the word ‘and’ between paragraphs (a) and (b).

**Item [14]** repeals and substitutes section 6 of the Standard. The Standard Variation incorporates, by reference, other instruments and documents, including a document published by the Australian Bureau of Statistics (see the definition of ABS Remoteness Structure at Item 4) and an Order to establish the National Emergency Management Agency (see the definition of National Emergency Management Agency at Item 4). The change to section 6 makes it clear that references to incorporated instruments are a reference to those other instruments as existing from time to time.

**Item [15]** inserts a new subsection 7(3) into the Standard. Subsection 7(3) provides that unless otherwise specified, the requirements in Subdivision 1.1 of the Standard apply whether or not the sole or predominant cause of an outage is a natural disaster.

**Item [16]** repeals and substitutes section 8 of the Standard so that the requirement to notify other carriers and CSPs about major outages is also a requirement to notify about significant local outages. The substituted section 8 also includes a new requirement that a notifying carrier (the first carrier) must provide each carrier or CSP that the first carrier notifies with such assistance as the carrier or CSP reasonably requires in order to comply with its obligations in Part 2. For example, where a CSP requires further information about the outage; or, where the first carrier provides a notification to a CSP, it would be reasonable to expect the first carrier to provide that information in a form that will be easy for the CSP to use or to reproduce in communications to the public and in notifications to end-users.

**Item [17]** repeals and substitutes section 9 of the Standard to outline the requirements on carriers to communicate to the public in relation to a major outage, including where the sole or predominant cause of that outage is a natural disaster. Where the sole or predominant cause is not a natural disaster, as soon as practicable after the carrier detects the outage or receives a notification about the outage, the carrier must communicate information about the outage in an easily accessible form using various channels, including the carrier’s website (or other website options if the carrier does not have a website) and either the carrier’s primary social media account, or one or more types of other media.

Where the sole or predominant cause of the major outage is a natural disaster, the carrier is not required to communicate information about the major outage using the carrier’s primary social media account or one or more types of other media but is required to communicate information on its website (or other website options if the carrier does not have a website).

Item 17 also inserts a new section 9A. This section imposes requirements on carriers to communicate to the public in relation a significant local outage, including where the sole or predominant cause of that outage is a natural disaster. The communications requirements on carriers in relation a significant local outage is the same as those for major outages, except in all cases, the carrier is not required to communicate via the carrier’s primary social media account or using one or more types of other media.

Both sections 9 and 9A recognise that there are some types of carriers that do not have public-facing websites and allow a carrier to use another website that is more suitable for communicating information to the public.

**Item [18]** repeals and substitutes section 10 of the Standard to extend the requirements on carriers to communicate with relevant stakeholders in relation to both major outages and significant local outages. The new section 10 no longer refers to the term ‘rectification’ and applies to relevant carriage services rather than all carriage services.

**Item [19]** varies the heading of section 12 to add the words ‘major outages not caused by natural disaster’ to the end of the heading.

**Item [20]** varies subsection 12(1) to apply to major outages that are not caused by a natural disaster.

**Item [21]** varies the note to subsection 12(1) to delete the sentence ‘Products may include an Internet of Things device, or machine to machine devices’ as these products do not fall within the definition of ‘relevant carriage services’.

**Item [22]** repeals and substitutes subsection 12(5) and the accompanying note to insert the word ‘relevant’ before ‘carriage services’ and to clarify the note. This change makes it clear that the subsection applies to relevant carriage services rather than all carriage services.

**Item [23]** adds two new sections to the end of Subdivision 1.2 of Part 2. Those sections are:

* Section 12A, which requires CSPs to communicate with end-users and the public in relation to significant local outages not caused by a natural disaster. This section mirrors the requirements in section 12 in relation to major outages; and
* Section 12B which requires CSPs to communicate with the public in relation to major outages or significant local outages that are caused by a natural disaster. This section makes it a requirement that information be published on the CSP’s website, and direct notifications to the public and end-users are not required.

**Item [24]** repeals and substitutes section 13 to extend the minimum content for notifications and communications to apply to both major outages and significant local outages, and to specify that the information listed in subsection (1) that a carrier or CSP must include relates to relevant carriage services (rather than all carriage services) affected by an outage. New section 13 also no longer refers to rectification of the outage but to restoration of relevant carriage services affected by the outage.

**Item [25]** repeals and substitutes section 14 to extend the requirements on carriers and CSPs to provide regular updates on both major outages and significant local outages. New section 14 also refers to relevant carriage services (rather than all carriage services), and to the restoration of carriage services, rather than the rectification of an outage.

**Item [26]** repeals and substitutes section 15 to extend the requirements on carriers and CSPs about giving notification of the restoration of services in relation to both major outages and significant local outages. The new section 15 also refers to relevant carriage services (rather than all carriage services), and to the restoration of carriage services, rather than the rectification of an outage.

**Item [27]** repeals and substitutes subsection 16(1) to extend the requirements on CSPs to provide real-time or near real-time assistance to end-users in relation to both major outages and significant local outages.

**Item [28]** substitutes paragraphs 16(3)(a) to (d) to remove the prohibition on the use of ‘artificial intelligence’ and replace that with the requirement to allow an end-user to live chat with, or talk to, a representative of the CSP. This variation was made in response to feedback identifying the use of artificial intelligence by telecommunications companies in the provision of various contact methods with customers. It allows artificial intelligence to continue to be used but imposes a requirement that end-users must be able to talk to a representative of the CSP to obtain information about an outage.

**Item [29]** repeals Division 3 of Part 2 which provided an exemption for carriers and CSPs in relation to major outages during natural disasters. Requirements on both carriers and CSPs in relation to outages caused by natural disasters are now weaved into the individual provisions in relation to all outages throughout the Standard (see for example, section 7 (Item 15), sections 9 and 9A (Item 17), section 12 (Items 19 and 20) and sections 12A and 12B (Item 23)).

**Item [30]** amends the heading of Part 3 to make it clear that the Part applies to both major outages and significant local outages. This Part extends the requirements on carriers and CSPs to have written procedures for communicating during outages in relation to both major outages and significant local outages.

**Item [31]** varies the heading of section 18 to insert the words ‘or significant local outages’ as section 18 now deals with both major outages and significant local outages.

**Item [32]** repeals and substitutes subsection 18(1) to make it clear that the provision applies to relevant carriage services and not all carriage services. The variation also extends the subsection so that it applies to both a major outage and a significant local outage.

**Item [33]** varies the heading of section 19 to insert the words ‘or significant local outages’ as section 19 now deals with both major outages and significant local outages.

**Item [34]** repeals and substitutes subsection 19(1) to make it clear that the provision applies to relevant carriage services and not all carriage services. The variation also extends the subsection so that it applies to both a major outage and a significant local outage.

**Item [35]** repeals and substitutes subsection 19(3) to make it clear that the provision applies to both a major outage and a significant local outage.

**Attachment B**

**Statement of compatibility with human rights**

Prepared by the Australian Communications and Media Authority under subsection 9(1) of the *Human Rights (Parliamentary Scrutiny) Act 2011*

*Telecommunications (Customer Communications for Outages) Industry Standard Variation 2025 (No.1)*

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 *Legislation Act 2003* 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 Variation***

The *Telecommunications (Customer Communications for Outages) Industry Standard 2024* (the **Standard**) was made under subsection 125AA(1) of the *Telecommunications Act 1997* (**the Act**)*.* It was drafted to meet the requirements and objectives in sections 5 and 6 of the *Telecommunications (Customer Communications for Outages Industry Standards) Direction 2024* (the **Direction**). In broad terms, those requirements and objectives were initially, to ensure, during a major outage, that carriers and carriage service providers (**CSPs**) communicate and notify certain persons in a timely manner and continue to provide up-to-date information to those persons in relation to the major outage.

The variations made to the Standard by the Standard Variation are to meet the requirements and objectives in subsection 5(3) and section 6 of the Direction which are to ensure, during a significant local outage, that carriers and CSPs communicate and notify certain persons in a timely manner and continue to provide up-to-date information to those persons in relation to the significant local outage.

The Standard as varied by the Standard Variation, applies to carriers and CSPs in the event of a major outage and a significant local outage, and imposes minimum content requirements for communications and notifications to other affected carriers and CSPs, end-users, relevant stakeholders and the public. The Standard also requires that the forms of communicating, notifying or informing to the public and end-users are in an easily accessible form, including for persons with disability, from a culturally or linguistically diverse background, or with other accessibility requirements. The Standard also imposes requirements on CSPs and carriers in relation to communicating information to the public during outages where the sole or predominant cause of the outage is a natural disaster.

***Human rights implications***

The ACMA has assessed whether the Standard Variation 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 Standard Variation and the nature of the applicable rights and freedoms, the ACMA has formed the view that the Standard Variation engages the same rights or freedoms as those identified for the Standard, including:

* The right to freedom of expression in Article 19(2) of the *International Covenant on Civil and Political Rights* (**ICCPR**), which states:

*2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.*

* The following rights for persons with disabilities under the *Convention on the Rights of Persons with Disabilitie*s (the **CRPD**):
	+ *to access, on an equal basis with others, information and communications (Article 9); and*
	+ *the right to freedom of expression and opinion, including the freedom to seek, receive and impart information and ideas on an equal basis with others and through all forms of communication of their choice (Article 21).*

***Right to freedom of expression***

The ACMA considers that the Standard Variation engages the right to freedom of expression, in so far as that right includes the right of certain classes of persons, such as end-users of telecommunications services and the public to receive information relating to significant local outages. This includes persons that are part of remote and isolated communities in Australia that may rely solely on one telecommunications network.

Sections 9, 9A and 12 of the Standard (as varied by the Standard Variation) impose requirements on carriers and CSPs to provide information in a number of forms to certain persons including end-users and the public. For example, section 9A requires carriers that detect a significant local outage on their network, or that have been notified of a significant local outage that affects their network, to communicate certain information about the outage to the public. Section 12A of the Standard (as varied by the Standard Variation) requires CSPs who have been notified of a significant local outage affecting the carriage service they provide to end-users, where the sole or predominant cause of the outage is not a natural disaster, to notify those end-users and the public about the significant local outage. Part 3 of the Standard (as varied by the Standard Variation) requires carriers and CSPs to maintain and publish their procedures for communicating information about major outages and significant local outages, including to the public and end-users.

The obligations of the Standard Variation are intended to aid and inform end-users and the public in cases where there is a major outage or a significant local outage that affects a telecommunications network. The information is intended to enable end-users and the public to better understand the impact of the outage and provide those end-users and members of the public with communication options that might better allow those affected end-users and the public to make alternative arrangements in their personal and professional lives during or following an outage.

The ACMA considers the definitions for major outage and significant local outage have the effect of affording protections to end-users and the public and are directed at promoting the rights of persons. The definition of ‘significant local outage’ in particular, will capture those individuals located in remote and isolated communities and ensure those individuals receive information about the nature and scale of an outage that affects their services. Accordingly, the ACMA considers that the Standard promotes and enhances the right to freedom of expression.

***Rights for persons with disabilities***

A number of provisions in the Standard (including provisions inserted or varied by the Standard Variation) positively engage and support the rights of people with disabilities (among others) to receive information on an equal basis with others, through the forms of communication delivered to them, consistent with Articles 9 and 21 of the CRPD.

For example, sections 9 and 9A of the Standard (as varied by the Standard Variation) contain requirements for communications and notifications of information in relation to a major outage and a significant local outage to be in an easily accessible form. The definition of ‘easily accessible form’ that was provided in the Standard has been enhanced by the Standard Variation, to mean a form of communicating, notifying or informing that uses plain language, is easy to understand and is readily available, including to a person with disability, from a culturally or linguistically diverse background or with other accessibility requirements.

Similar requirements are imposed with respect to providing regular updates to the public and end-users, and to any information about communication processes made available on a CSP’s website.

Further, paragraph 16(3)(a) of the Standard (as varied by the Standard Variation) requires that where possible, CSPs must provide alternative easy to access contact channels that enable end-users to contact the CSP using real-time, or near-real time, communications if they require urgent assistance during an outage, including outages caused solely or predominantly by natural disasters. In this way, the ACMA considers that the Standard promotes and enhances the rights for persons with disabilities.

***Conclusion***

The Standard Variation is compatible with human rights including the right to freedom of expression and rights for persons with disabilities. These rights are positively engaged by providing consumer protections and safeguards through requirements on CSPs and carriers to make information available about major and significant local outages to consumers and the public.