

EXPLANATORY STATEMENT

Approved by the Australian Communications and Media Authority

Telecommunications Act 1997

Telecommunications (Consumer Complaints Handling) Industry Standard Amendment 2025 (No.2)

Authority

The Australian Communications and Media Authority (the **ACMA**) has made the *Telecommunications (Consumer Complaints Handling) Industry Standard Amendment 2025 (No.2)* (the **Amending Instrument**) under subsection 125AA(1) of the *Telecommunications Act 1997* (the **Act**) and in accordance with subsection 5(4) of the *Telecommunications (NBN Consumer Experience Industry Standard) Direction 2017* (the **Direction**) and subsection 33(3) of the *Acts Interpretation Act 1901* (the **AIA**).

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

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

The Direction was given to the ACMA by the Minister under subsection 125AA(4) of the Act on 20 December 2017.

Subsection 5(1) of the Direction directs the ACMA to determine an industry standard under subsection 125AA(1) of the Act that complies with Divisions 2, 3 and 4 of Part 2 of the Direction.

Relevantly, section 8 of the Direction requires the ACMA to determine an industry standard relating to the handling of consumer complaints by carriage service providers (CSPs) and carriers.

Subsection 8(1) of the Direction requires the ACMA to determine an industry standard that:

- (a) applies to CSPs and carriers responsible for network units that are used in the supply of services; and
- (b) deals with the handling of consumer complaints about the supply of services by persons listed in paragraph 8(1)(a) in a professional, effective and efficient manner.

Relevantly, paragraphs 8(2)(a) to (c) of the Direction provide that the industry standard must, among other things, deal with:

- (a) requirements for CSPs to establish a consumer complaints handling process, including minimum requirements in relation to timeliness, accessibility and transparency of that process;
- (b) a requirement that a consumer complaints handling process established in accordance with the standard must be free of charge to consumers;

- (c) requirements for CSPs to manage, monitor, analyse, record and report consumer complaints, including requirements for response times for steps in the consumer complaints handling process to be completed.

Subsection 125AA(5) of the Act provides that the ACMA must determine an industry standard under subsection 125AA(1) in accordance with a direction under subsection 125AA(4).

The ACMA made the *Telecommunications (Consumer Complaints Handling) Industry Standard 2018* (the **Complaint Handling Standard**) consistent with the requirements in sections 5 and 8 of the Direction and it commenced on 1 July 2018.

The ACMA is also directed under subsection 5(4) of the Direction to vary an industry standard made under the Direction, as it considers necessary from time to time, in a like manner and subject to like conditions specified in subsection 5(1). Subsection 33(3) of 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.

The Amending Instrument relies upon subsection 5(4) of the Direction and subsection 33(3) of the AIA to vary the Complaints Handling Standard, as considered necessary by the ACMA, in a like manner and subject to the conditions imposed under sections 5 and 8 of the Direction.

Background

The ACMA made the Complaints Handling Standard in 2018 as part of a suite of new rules to improve the experience of consumers moving onto the NBN, in accordance with sections 5 and 8 of the Direction.

In January 2019 the ACMA decided to undertake a post-implementation review of those new rules. Following the review, the ACMA made amendments to the Complaints Handling Standard as set out in *Telecommunications (Consumer Complaints Handling) Industry Standard Variation 2020 (No. 1)* (the **Variation Instrument**).

On 29 April 2025, following the making of the *Telecommunications (Complaints Handling Industry Standard Amendment) Direction 2024*, the ACMA made amendments to the Complaints Handling Standard as set out in the *Telecommunications (Consumer Complaints Handling) Industry Standard Amendment 2025 (No.1)* (**Amendment No.1**).

Amendment of the wording of paragraph (a) of the definition of “urgent complaint”

Amendment No.1 made changes to address complaints relating to communications outages. It also included an update to the wording of paragraph (a) of the definition of “urgent complaint” relating to financial hardship complaints that were considered urgent.

Prior to being amended by Amendment No. 1, paragraph (a) of the definition of “urgent complaint” read:

- (a) where the complaint is made by a consumer who has applied for or has been accepted as being in financial hardship under that carriage service provider’s financial hardship policy and where the subject matter of the complaint can reasonably be presumed to directly contribute to or aggravate the financial hardship of that consumer...

The change to paragraph (a) of the definition of urgent complaint was intended to better align the wording of the definition with the terminology used in the *Telecommunications (Financial Hardship) Industry Standard 2024*.

This intention was to be given effect by replacing the words ‘a consumer who has applied for or has been accepted as being in financial hardship under that carriage service provider’s financial

hardship policy’ with the words ‘*a consumer who is a financial hardship customer and has applied, or entered into, an arrangement for financial hardship assistance*’.

Due to an administrative error, the amendment made to the definition of “urgent complaint” in Amendment No. 1, mistakenly omitted the words ‘*and where the subject matter of the complaint can reasonably be presumed to directly contribute to or aggravate the financial hardship of that consumer*’ (**the omitted words**) from the definition.

That error is now corrected by means of the Amending Instrument.

Amendment to add paragraph (d) to the definition of “urgent complaint”

On 10 December 2024, the Minister gave the ACMA a direction to determine an industry standard under subsection 125AA(1) of the Act that deals with safeguarding telecommunications consumers who are, or may be, affected by domestic and family violence (**DFV**), and where relevant, sexual violence.

On 6 June 2025, the ACMA made the *Telecommunications (Domestic, Sexual and Family Violence Consumer Protections) Industry Standard 2025* (the **DFSV Standard**).

The DFSV Standard recognises that for victim-survivors of domestic, family and sexual violence (**DFSV**), access to safe, reliable and secure communications can be critical to safety, privacy and wellbeing. Telecommunications services play a vital role in supporting victim-survivors to stay connected, seek help and plan for safety. Conversely, telecommunications services can also be used to compromise safety and security and facilitate DFV, for example via technology facilitated abuse and/or economic abuse.

A consultation draft of the DFSV Standard was released for public consultation in February 2025.

In the course of drafting the DFSV Standard, the ACMA regarded it as necessary for complaints where delayed action may affect the safety of consumers affected by DFSV to be treated as urgent.

The consultation paper for the draft DFSV Standard proposed a minor addition to the definition of “urgent complaint” in the Complaints Handling Standard.

Under the proposed amendment, a complaint made by a consumer experiencing DFV (defined in the DFSV Standard as an ‘affected person’), who indicates that there is a threat to their safety, would be considered to be an “urgent complaint”. The Amending Instrument now gives effect to that proposal.

More background details regarding the making of the Complaints Handling Standard, the DFSV Standard, the Variation Instrument and Amendment No. 1 are set out in the Explanatory Statements to these instruments on the Federal Register of Legislation.

Purpose and operation

A key purpose of the Amending Instrument is to require telecommunications providers to treat complaints made by consumers affected by DFV as urgent where the person indicates that there is a threat to the safety of that person and/or their children.

The Amendment also reinstates the qualifying text at paragraph (a) of the definition of an “urgent complaint” to correct an administrative error.

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

The Amending Instrument is a legislative instrument for the purposes of the *Legislation Act 2003* (the **LA**) and is disallowable.

Documents incorporated by reference

The Amending Instrument 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 DFSV Standard.

The Act and industry standard 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.

Consultation

Consultation in relation to the amendment of the wording of paragraph (a) of the definition of “urgent complaint”

In relation to the amendment made to paragraph (a) of the definition of ‘urgent complaint’, 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.

Details of the consultation process undertaken in relation to the making of Amendment No.1 are set out in the Explanatory Statement to that instrument.

The consultation draft released in the consultation process included a version of paragraph (a) of the definition of ‘urgent complaint’ that included the omitted words. While the wording of paragraph (a) was changed post consultation in relation to how the relevant consumer should be referred to, it was not intended that the omitted words be changed or omitted.

The amendment in the Amending Instrument has the effect of reinstating the inadvertently omitted words. As such, and in light of the fact that the consultation draft of the Amending Instrument contained the omitted words, no further public consultation was conducted prior to making the Amending Instrument.

Consultation in relation to the amendment which adds paragraph (d) to the definition of “urgent complaint”

Before making the Amending Instrument, 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.

This included consultation with the Australian Telecommunications Alliance (then Communications Alliance being a body that represents the telecommunications industry), the Telecommunications Industry Ombudsman, the Australian Competition and Consumer Commission, the Office of the Australian Information Commissioner, the Australian Communications Consumer Action Network (being a body that represents the interests of consumers), industry stakeholders, consumer groups, DFV advocacy groups and the public.

Between 25 February 2025 and 2 April 2025, the ACMA conducted a public consultation process, through the release of a draft of the DFSV Standard and a consultation paper on the ACMA’s website. The consultation paper specifically addressed the question of amending the definition of “urgent complaint” in the Complaints Handling Standard to include complaints made by consumers experiencing DFV, where the subject matter of the complaint imposes a direct threat to their safety.

The ACMA received 7 submissions in relation to the proposal to amend the definition of “urgent complaint”.

All non-confidential submissions were published on the ACMA website as part of the consultation process.

There was broad general support for the proposed amendment and the ACMA considered all relevant issues raised by the submissions in the consultation process when making the amendments to the Complaints Handling Standard. Key issues raised by stakeholders included the following:

- Broad general support for the proposal from consumer advocates and government stakeholders with feedback on inclusion of children's safety into the definition, or the application of the proposed definition to all complaints made by a person experiencing DFV without qualification.
- Lack of support for the proposal from some industry stakeholders, suggesting changes were unnecessary and that not all DFV matters would require urgent action.

The ACMA considered all feedback carefully. The ACMA considers that including children's safety is reasonable in the matter of domestic and family violence as dealing urgently with complaints relating to telecommunications matters may well impact the safety of all family members in these circumstances. The ACMA acknowledges that not all DFV complaints are urgent. However, the ACMA considers the inclusion of a caveat that where the affected person indicates that there is a threat to a person's safety (and therefore should be treated urgently) strikes a reasonable balance between the affected person's safety and security, and the operational needs of the carriage service provider.

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.

Notes to the *Telecommunications (Consumer Complaints Handling) Industry Standard Amendment 2025 (No.2)*

Section 1 Name

This section provides for the industry standard to be cited as the *Telecommunications (Consumer Complaints Handling) Industry Standard Amendment 2025 (No. 2)* (the **Amending Instrument**).

Section 2 Commencement

Sections 1 to 4 and Part 1 of Schedule 1 at the start of the day after this instrument is registered.

Section 5 and Part 2 of Schedule 1 commence on 1 January 2026.

Section 3 Authority

This section identifies the provision of the Act that authorises amending the *Telecommunications (Consumer Complaints Handling) Industry Standard 2018* (the **Complaints Handling Standard**), namely subsection 125AA(1) of the *Telecommunications Act 1997* (the **Act**).

Section 4 Amendment in Part 1 of Schedule 1

This section provides that the Complaints Handling Standard is varied in accordance with Part 1 of Schedule 1.

Section 5 Amendments in Part 2 of Schedule 1

This section provides that the Complaints Handling Standard is varied in accordance with Part 2 of Schedule 1.

Schedule 1—Amendments

This schedule sets out the amendments to the Complaints Handling Standard.

Part 1 – Main amendments

Items [1 to 3] amend section 5 of the Complaints Handling Standard.

Section 5 defines a number of key terms used throughout the Complaints Handling Standard and notes that a number of other expressions used in the Standard are defined in the Act. The definition of urgent complaint has been amended and a new term inserted to support this amendment.

Key amendments to the definitions in section 5 include:

Item 1 inserts a new definition of “affected person” to have the same meaning as in section 5 of the *Telecommunications (Domestic, Family and Sexual Violence Consumer Protections) Industry Standard 2025*. It reflects the use of this term in the amendment at Item 3.

Item 2 amends paragraph (a) of the definition of “urgent complaint” to require that in order to be considered an urgent complaint, the subject matter of a complaint made by a consumer who is a financial hardship customer who has applied for, or entered into an arrangement, for financial

hardship assistance must be reasonably presumed to directly contribute to or aggravate the financial hardship of that consumer.

Item 3 inserts a new paragraph (d) in the definition of “urgent complaint” to mean that complaints made by an affected person, where the person indicates there is a threat to the safety of that person and/or their children, are urgent complaints.

Attachment B

Statement of Compatibility with Human Rights

Prepared by the Australian Communications and Media Authority in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*

Telecommunications (Consumer Complaints Handling) Industry Standard Amendment 2025 (No.2)

Overview of the Instrument

The Australian Communications and Media Authority (the **ACMA**) has made the *Telecommunications (Consumer Complaints Handling) Industry Standard Amendment 2025 (No.2)* (the **Amending Instrument**) under subsection 125AA(1) of the *Telecommunications Act 1997* (the **Act**) and in accordance with section 5 of the *Telecommunications (NBN Consumer Experience Industry Standard) Direction 2017* (the **Direction**).

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

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

The Direction was given to the ACMA by the Minister under subsection 125AA(4) of the Act on 20 December 2017. The Direction required the ACMA to make the *Telecommunications (Consumer Complaints Handling) Industry Standard 2018 (the Complaints Handling Standard)* under subsection 125AA(1) of the Act. Subsection 5(4) directed the ACMA to vary an industry standard made under the Direction, as it considers necessary from time to time, in a like manner and subject to like conditions specified in subsection 5(1).

The Amending Instrument is made in accordance with subsection 5(4) of the Direction.

Human rights implications

The Amending Instrument engages the following rights:

- The right to protection against exploitation, violence and abuse contained in Article 20(2) of the ICCPR, and Article 6 of the Convention on the Elimination of All Forms of Discrimination against Women (**CEDAW**):
 - *Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law (Article 20(2) ICCPR)*

Explanatory Statement to the *Telecommunications (Consumer Complaints Handling) Industry Standard Amendment 2025 (No.2)*

- *States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women (Article 6 CEDAW)*

Right to protection against exploitation, abuse and violence

The Amending Instrument promotes this right as the effect of the amendments is to broaden the categories of “urgent complaints” to cover persons who are victims of domestic or sexual violence which may assist those people to stay connected or be reconnected to their telecommunications service. The Complaints Handling Standard imposes requirements on providers to resolve urgent complaints quickly and to have policies and procedures in place relating to dealing with and prioritising urgent complaints

Conclusion

The Amending Instrument is compatible with human rights because it promotes the right to protection against exploitation, violence and abuse.