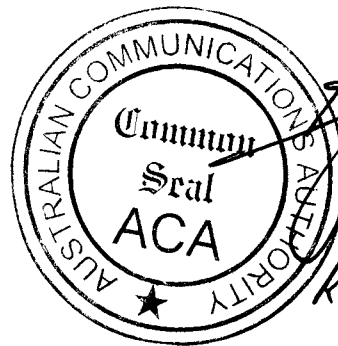




Telecommunications (Customer Service Guarantee) Amendment Standard 2001 (No. 1)

The AUSTRALIAN COMMUNICATIONS AUTHORITY makes this Standard under paragraph 125 (3) (a) of the *Telecommunications (Consumer Protection and Service Standards) Act 1999*.

Dated *20 September* 2001



A. Brown
Chair

R. Horton
Deputy Chair

Australian Communications Authority

1 Name of Standard

This Standard is the *Telecommunications (Customer Service Guarantee) Amendment Standard 2001 (No. 1)*.

2 Commencement

This Standard commences on gazettal.

3 Amendment of *Telecommunications (Customer Service Guarantee) Standard 2000 (No. 2)*

Schedule 1 amends the *Telecommunications (Customer Service Guarantee) Standard 2000 (No. 2)*.

Schedule 1 Amendments

(section 3)

[1] Subsection 4 (1), after definition of *affected customer*

insert

alternative service means a service that provides a customer with access to a telephone service.

Note An example of an alternative service is a call diversion to a mobile telephone service or a second fixed telephone service.

[2] Subsection 4 (1), definition of *CSG service*

omit

paragraph 19 (1) (a)

insert

paragraph 9 (1) (a)

[3] Subsection 4 (1), definition of *CSG service*, note

omit

paragraph 19 (1) (a)

insert

paragraph 9 (1) (a)

[4] Subsection 4 (1), definition of *designated basic rate ISDN service*

omit

subsection 12A (4)

insert

subsection 10E (4)

[5] Subsection 4 (1), definition of *interim service*

substitute

interim service means a service:

(a) that provides a customer with:

(i) a service for voice telephony; or

- (ii) if voice telephony is not practical for a customer with a disability — a service equivalent to a service for voice telephony;
which may or may not include at the provider's discretion a data capability or any enhanced call handling feature; and
- (b) for which that customer is, or may be, charged an amount for the ongoing supply of that service at the location requested by the customer that does not exceed the amount that the customer would have been charged if the customer were supplied with a CSG service on request; and
- (c) that is supplied to a customer:
- (i) if the location requested by the customer is a remote location without infrastructure and the supply of the service is no later than 14 April 2003:
- (A) for a period that does not exceed 12 months from the time of the customer's request for the connection of a standard telephone service; or
- (B) with the agreement of the customer, for a longer period; or
- (ii) in any other case:
- (A) for a period that does not exceed 6 months from the time of the customer's request for the connection of a standard telephone service; or
- (B) with the agreement of the customer, for a longer period.

Example of provision of an interim service

Provision of a mobile telephone service (at standard telephone service rates) to replace a standard telephone service.

[6] Subsection 4 (1), after definition of *rectification period*

insert

remote location without infrastructure means:

- (a) a site outside a standard zone that:
- (i) is not in close proximity to external plant facilities (being facilities used in the supply of a telephone service); or
- (ii) is in close proximity to such facilities, where the facilities needed to supply the service do not have sufficient available capacity to support the service requested by the customer at the time of the request; or
- (b) a site that is within a standard zone (but not within an urban centre or a locality or other recognised community grouping with a population equal to or greater than 200 people) that:
- (i) is not in close proximity to external plant facilities (being facilities used in the supply of a telephone service); or

- (ii) is in close proximity to such facilities, where the facilities needed to supply the service do not have sufficient available capacity to support the service requested by the customer at the time of the request.

Note Information about the current method of delimitation of urban centres and localities, and a listing of current urban centres and localities, may be found in the Australian Bureau of Statistics publication *Statistical Geography: Volume 3 - Australian Standard Geographical Classification (ASGC) Urban Centres/Localities*, 1996 Cat. No. 2909.0.

[7] Subsection 4 (1), after definition of *specified service*

insert

standard zone has the same meaning as in section 108 of the Act.

[8] Subsection 4 (1), note 1

omit

- approved universal service plan

insert the following defined terms in the appropriate alphabetical positions (determined on a letter-by-letter basis)

- approved standard marketing plan
- primary universal service provider
- service obligation
- universal service area

[9] Subsections 8 (1) and (2)

substitute

- (1) A performance standard does not apply where:
- (a) a carriage service provider has made a reasonable offer to supply the customer with an interim service or an alternative service, and the customer has refused to accept the supply of the interim service or alternative service; or
 - (b) a carriage service provider offers a customer an interim service and an alternative service, and:
 - (i) in making this offer, the carriage service provider supplies sufficient information to the customer about the functionality of each service and the terms and conditions of supply of each service to enable the customer to make an informed judgement about the relative merits of each service; and

- (ii) the customer accepts the offer of an alternative service.

Note The ACA may make a written determination stating what is a reasonable offer of an interim service or an alternative service for paragraph (1) (a), and a written determination stating what is sufficient information for paragraph (1) (b).

- (2) In relation to the period beginning at the commencement of this instrument and ending on 14 April 2003, a carriage service provider must not, in the absence of the agreement of a customer in a remote location without infrastructure, supply the customer with an interim service for a period exceeding 12 months from the time of the customer's request for the connection of a standard telephone service.

[10] After subsection 8 (3)

insert

- (4) A carriage service provider must not:
- (a) if subsection (2) does not apply; and
 - (b) without the agreement of a customer;
- supply the customer with an interim service for a period exceeding 6 months from the time of the customer's request for the connection of a standard telephone service.

[11] Subsection 9 (2)

omit

approved universal service plan for the area

insert

approved standard marketing plan for a primary universal service provider for the universal service area in respect of a service obligation

[12] Schedule 1, Part 2, paragraph 202 (b)

omit

urban centre, locality

insert

urban centre

[13] Schedule 1, Part 2, paragraphs 202 (c) and (d)

substitute

- (c) if the site at which a customer wishes a specified service to be connected is within an urban centre, locality or other recognised community grouping with a population greater than 200 but not more than 2 500 — within 15 working days of the customer's request; and
- (d) if paragraphs (a), (b) and (c) do not apply to the site at which a customer wishes a specified service to be connected — within 15 working days of the customer's request.

EXPLANATORY STATEMENT

Issued by the authority of the Australian Communications Authority (ACA)

TELECOMMUNICATIONS (CUSTOMER SERVICE GUARANTEE) AMENDMENT STANDARD 2001 (NO. 1)

Telecommunications (Consumer Protection and Service Standards) Act 1999

LEGISLATIVE BASIS

Under section 115 of the *Telecommunications (Consumer Protection and Service Standards) Act 1999* (the Act), the ACA may make performance standards to be complied with by carriage service providers in relation to the supply or proposed supply of carriage services to a customer. The ACA has made the *Telecommunications (Customer Service Guarantee) Standard 2000* (the Standard) under subsection 115(1) of the Act.

Under section 124 of the Act, the Minister may give the ACA a written direction about how the ACA is to exercise its powers under Part 5 of the Act. The Minister for Communications, Information Technology and the Arts made the *Telecommunications (Customer Service Guarantee) Direction No.1 of 1999 (Amendment No.1 of 2001)* on 28 August 2001.

Under subsection 125(3) of the Act, if a Minister varies a direction, the ACA must either vary the standard that is in force under section 115 of the Act because of the direction so that the standard complies with the varied direction; or revoke the standard and determine a new standard that so complies. In this case, a variation to the standard is to be made.

A standard made under section 115 of the Act is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

BACKGROUND

The Minister for Communications, Information Technology and the Arts, the Hon. Senator Richard Alston (the Minister) established the Telecommunications Service Inquiry (the Inquiry) on 19 March 2000 to independently assess the adequacy of telecommunications services in metropolitan, regional, rural and remote Australia. The Inquiry reported its findings to the Minister on 30 September 2000.

While the Inquiry found that Australians generally have adequate access to a range of high quality basic and advanced telecommunications services comparable to the leading information economies of the world, it also found a significant proportion of rural and remote consumers have concerns about key aspects of their services, including the timeliness of installation and repair, and reliability, of basic telephone services.

In its response to the Inquiry, the Government announced that it would address these concerns in part by amending the Customer Service Guarantee (CSG) Standard to reduce the maximum connection period for the standard telephone service (STS) in more remote areas of Australia not in close proximity to infrastructure that can be used from 12 months to 6 months.

The guaranteed maximum connection time under the CSG for customers in more remote areas not close to infrastructure that can be used is specified in section 9(2) of the *Telecommunications (Customer Service Guarantee) Standard 2000 (No. 2)* by reference to the maximum connection time set out in 'an approved universal service plan'. Telstra's Universal Service Plan, which was approved by the Minister on 3 November 2000, is also deemed to be an approved standard marketing plan, under item 6 of Schedule 2 to the *Telecommunications (Consumer Protection and Service Standards) Amendment Act (No. 2) 2000*. Telstra's plan is the only such approved plan in existence.

A reduction in the guaranteed maximum connection time from 12 to 6 months for customers in more remote areas not close to infrastructure that can be used may be achieved by requiring Telstra to amend its plan. Such a direction is included in the *Telstra Corporation Limited—Variation of Approved Standard Marketing Plan Notice No. 1 of 2001*.

For a transitional period, the Government will allow service providers to meet the more stringent provisioning requirement by offering interim services for a longer period. The maximum period for provision of an interim service in areas where the maximum connection time is to be reduced to 6 months will increase from 6 to 12 months until 14 April 2003. After that date the maximum period for supply of an interim service will revert to 6 months in all areas.

This amendment provides for policy changes in relation to the applicability of CSG performance standards when services such as call diversion to a mobile telephone service are offered to customers.

The amendment also brings the Standard up to date in various areas.

Details of the Amendment Standard are set out in the notes in Attachment 1. The Office of Regulation Review did not require a Regulation Impact Statement.

Notes on the Instrument

Name of Standard

Section 1 provides that the name of the amending Standard is the *Telecommunications (Customer Service Guarantee) Amendment Standard 2001 (No.1)*.

Commencement

Section 2 provides that the amending Standard commences on gazettal.

Variation

Section 3 provides that the 2000 Standard, which was made by the Authority on 6 July 2000 and notified in the *Gazette* on 7 July 2000, is varied as set out in Schedule 1 to the amending Direction.

SCHEDULE 1—Amendments

Item 1, definition of *alternative service*

Item 1 inserts a definition of ‘alternative service’. Interim and alternative services may both be offered pending the connection or rectification of a standard telephone service (STS).

Items 2 and 3, definition of *CSG service* and following Note

Items 2 and 3 amends the definition of ‘CSG Service’ in section 4 of the 2000 Standard to reflect recent amendments to the Act. The definition of CSG service and the following Note in the 2000 Standard contain a reference to an obligation specified in paragraph 19(1)(a) of the Act. As a result of the *Telecommunications (Consumer Protection and Service Standards) Amendment Act (No. 2) 2000*, the obligation previously specified in paragraph 19(1)(a) of the Act is now specified in paragraph 9(1)(a) of the Act.

Item 4, definition of *designated basic rate ISDN service*

Item 4 similarly amends the definition of ‘designated basic rate ISDN service’ in the 2000 Standard to reflect changes in numbering of provisions in the Act made by the *Telecommunications (Consumer Protection and Service Standards) Amendment Act (No. 2) 2000*. The definition given in the 2000 Standard refers to the definition given in subsection 12A(4) of the Act. The definition previously given in subsection 12A(4) is now given in subsection 10E(4) of the Act.

Item 5, definition of *interim service*

Item 5 amends the definition of ‘interim service’ in the 2000 Standard by:

- clarifying that it is a service that provides a customer with a service for voice telephony or an equivalent service for a customer with a disability;
- clarifying that it may or may not include a data capability or any enhanced call handling feature, at the service provider's discretion; and
- increasing the maximum period over which such a service may be supplied to a customer in a 'remote location without infrastructure' (defined in item 5 of Schedule 1) until 14 April 2003.

Under paragraph (c) of the definition of 'interim service' in item 4, the maximum period for the supply of an interim service in a remote location without infrastructure is 12 months from the date of the customer's request for the connection of a STS, or longer with the customer's agreement, until 14 April 2003. In other locations until 14 April 2003 and in all locations after that date, the maximum period for supply of an interim service is 6 months from the date of the customer's request, or longer with the customer's agreement.

Item 6, definition of *remote location without infrastructure*

Item 6 inserts a definition of 'remote location without infrastructure', as referring to a site that is either:

- not within a standard zone (as defined in section 108 of the Act) in close proximity to infrastructure that can be used (as described in section (9)(1)(a) of the 2000 Standard); or
- in a standard zone but not within an urban centre or a locality or other recognised community grouping with a population equal to or greater than 200 people and not in close proximity to infrastructure that can be used.

The Note to the definition refers to an Australian Bureau of Statistics (ABS) publication that gives more information on the method of delimitation of urban centres and localities. The term 'other recognised community grouping' is not defined in the ABS publication but is used in the 2000 Standard, at paragraph 12(3)(b) and item 202 of Part 2 of Schedule 1. The term is intended to provide flexibility to include a community grouping that is not a locality within the meaning given by the ABS publication, but is recognised by a local council, municipal government, State or Territory government, or another body such as the Aboriginal and Torres Strait Islander Commission or a carriage service provider.

Item 7, definition of *standard zone*

Item 7 inserts a definition of 'standard zone', which is defined as in section 108 of the Act. This term is used in item 5.

Item 8, amendments to Note 1 of subsection 4(1)

These changes are necessary because of amendments to the Act introduced by the *Telecommunications (Consumer Protection and Service Standards) Amendment Act (No. 2) 2000*.

Item 9, subsections 8(1) and (2)

Item 9 amends subsections 8(1) and (2) of the 2000 Standard and inserts new provisions.

Paragraph 8(1)(a) provides that performance standards must provide that such standards do not apply where a carriage service provider has made a reasonable offer to supply the customer with an interim service or an alternative service and the customer has refused to accept the supply of either service. The Note provides that the ACA may make a written determination specifying what constitutes a reasonable offer of an interim service or an alternative service.

Paragraph 8(1)(b) similarly provides that a carriage service provider will not be in contravention of performance standards where:

- a carriage service provider offers a customer an interim service and an alternative service;
- in making this offer the provider supplies sufficient information to the customer about the functionality of each service and the terms and conditions of supply of each service to enable the customer to make an informed judgment about the relative merits of each service; and
- the customer accepts the offer of an alternative service.

The Note provides that the ACA may make a written determination specifying what constitutes sufficient information for the purposes of this subsection.

Subsection 8(2) and 8(4) provides for different maximum periods for the provision of an interim service for customers in a remote location without infrastructure and in other locations.

Subsection 8(2) provides that performance standards must provide that from the commencement of the standards made to comply with the amending Standard until 14 April 2003 a carriage service provider may not, without the agreement of a customer in a remote location without infrastructure, supply an interim service to the customer for a period of more than 12 months from the time of the customer's request for the connection of a STS.

Item 10 Subsection 8(4)

Subsection 8(4) provides that performance standards must provide that a carriage service provider may not, after 14 April 2003 in a remote location without infrastructure or at any time in another location, and without the customer's

agreement, supply an interim service to the customer for a period of more than 6 months from the time of the customer's request for connection of a STS.

Item 11, amendment of subsection 9(2)

Item 11 amends subsection 9(2) of the 2000 Standard to reflect changes to the Act introduced by the *Telecommunications (Consumer Protection and Service Standards) Amendment Act (No. 2) 2000*. As a result of those changes, Telstra's Universal Service Plan approved by the Minister on 3 November 2000 is deemed to be an 'approved standard marketing plan', while Telstra is deemed to be the 'primary universal service provider' for all of Australia until such time as another person is determined to be the primary universal service provider for an area.

Under the *Telstra Corporation Limited—Variation of Approved Standard Marketing Plan Notice No. 1 of 2001*, Telstra is required to amend its standard marketing plan to provide that the guaranteed maximum connection period in a 'remote location without infrastructure' (as defined in item 5 above) is 6 months. Its existing plan provides that the guaranteed maximum connection period in such a location is 12 months. Approval of the amended plan by the ACA will then make 6 months the guaranteed maximum connection period in a remote location without infrastructure for the purposes of the CSG.

Item 12, amendment of item 202(b) of Part 2 of Schedule 1

Item 12 amends item 202 (b) in Part 2 of Schedule 1 to the 2000 Standard by omitting the word 'locality'. Under the relevant ABS publication, a locality is generally a population centre of between 200 and 999 people.

Item 13, amendment of item 202(c) and (d) of Part 2 of Schedule 1

Item 13 amends Part 2 of Schedule 1 to the 2000 Standard to reflect the expiration of the first year of operation of the performance standards and the commencement on 1 July 2001 of a maximum connection period of 15 working days for customers at all sites not in close proximity to infrastructure that can be used where items 202(a) and 202(b) also do not apply.