



Telecommunications (Customer Service Guarantee) Standard 2000 (No. 2)

The AUSTRALIAN COMMUNICATIONS AUTHORITY makes this instrument under sections 115, 117 and 120 of the *Telecommunications (Consumer Protection and Service Standards) Act 1999*.

Dated 6 July 2000

A.J. SHAW
Chair

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Part 1 Introductory

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1 Name of instrument

This instrument is the *Telecommunications (Customer Service Guarantee) Standard 2000 (No. 2)*.

2 Commencement

This instrument commences on gazettal.

3 Revocation of *Telecommunications (Customer Service Guarantee) Standard 2000*

Telecommunications (Customer Service Guarantee) Standard 2000, made by the ACA on 15 May 2000 and notified in the *Gazette* on 24 May 2000, is revoked.

4 Interpretation

(1) In this instrument, unless the contrary intention appears:

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

affected customer means a customer of a carriage service provider to whom the carriage service provider is, or is likely to be, liable to pay damages

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under section 116 of the Act as a result of contravention by the provider of a performance standard.

building includes a structure, caravan and mobile home.

connection period means the period taken to connect a customer to a specified service in response to a request by the customer.

CSG service means an eligible telephone service supplied by a carriage service provider (including a reseller) to a customer of the provider, but does not include:

- (a) a public mobile telecommunications service; or
- (b) a designated basic rate ISDN service; or
- (c) a satellite service;

unless that service is supplied, or offered to be supplied, to fulfil the obligation in paragraph 19 (1) (a) of the Act.

Note A CSG service does not include sophisticated business-oriented services (such as Telstra's Centel, Siteline, Worldsource, VMS and CVPN services and similar services) offered by carriage service providers, unless they are supplied, or offered to be supplied, to meet the obligation specified in paragraph 19 (1) (a) of the Act.

customer means:

- (a) a customer of a carriage service provider; or
- (b) a person who requests, or has requested, the connection of a specified service;

but does not include a carrier or a carriage service provider.

designated basic rate ISDN service has the same meaning as in subsection 12A (4) of the Act.

eligible telephone service means:

- (a) a standard telephone service; or
- (b) a carriage service that would be a standard telephone service but for the fact that it is used for a purpose other than the purpose specified in paragraph 6 (1) (a) or (b) of the Act.

enhanced call handling feature means any of the following features:

- (a) call waiting (enabling a customer to receive a second call on a telephone service while engaged on a call);
- (b) call forwarding (causing a call directed to a number to be redirected to a stored number);
- (c) call barring (enabling a customer to control access to some, or all, network numbers before a call is established), but not a call barring option that a carriage service provider programs into its network;
- (d) calling number display (enabling a customer to identify the number of a calling party);
- (e) calling number display blocking (enabling a customer to prevent the display of his, her or its number to a called party).

exemption means an exemption under Part 3.

external plant facility means a facility that is:

- (a) not located in a telephone exchange; and
- (b) accessible by a carriage service provider to connect a customer of the carriage service provider to a standard telephone service.

fault or service difficulty, in relation to a specified service, means:

- (a) absence of a dial or ring tone; or
- (b) inability to make or receive calls; or
- (c) disruption to communications because of excessive noise levels; or
- (d) repetition of service cut offs; or
- (e) another condition that makes the service wholly or partly unusable; or
- (f) if the service includes an enhanced call handling feature — the feature is not operative.

guaranteed maximum connection period is a connection period mentioned in section 9.

guaranteed maximum rectification period is a rectification period mentioned in section 12.

interim service means a service:

- (a) that provides a customer with a telephone service; 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 on application with a CSG service; and
- (c) that is supplied to the customer:
 - (i) for a period that does not exceed 6 months; or
 - (ii) with the agreement of the customer, for a period of more than 6 months.

Example of provision of an interim service

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

performance standard means a requirement under Part 2 with which a carriage service provider must comply.

rectification period means the period taken to rectify a fault or service difficulty in a specified service, whether in response to a report by the customer or in other circumstances mentioned in Division 3 of Part 2.

reseller means a carriage service provider who acquires a carriage service from another carriage service provider for the purpose of supplying that service to a customer.

satellite service has the same meaning as in subsection 106 (4) of the Act.

site means:

- (a) land; or
- (b) a building, or other structure, on land.

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specified service means:

- (a) a CSG service; or
- (b) an enhanced call handling feature.

TIO means the Telecommunications Industry Ombudsman.

working day, in a location, means a day that is not a Saturday, Sunday or public holiday in the location.

Note 1 Each of the following expressions used in this instrument has the meaning given by the Act:

- approved universal service plan
- standard telephone service
- Telecommunications Industry Ombudsman.

Note 2 Each of the following words and expressions used in this instrument has the meaning given by the *Telecommunications Act 1997*:

- ACA
- carriage service
- carriage service provider
- carrier
- communications
- connected
- facility
- numbering plan
- public mobile telecommunications service
- telecommunications industry.

- (2) For the purposes of this instrument, if a report to, or request by a customer of, a carriage service provider that is made under a performance standard is received by the carriage service provider after 5 pm on a working day, the report or request is taken to be received by the provider on the next working day.

Part 2 Performance standards

Note 1 Section 115 of the Act provides for the ACA to make standards to be complied with by carriage service providers.

Note 2 Section 122 of the Act provides that a contravention of a standard in force under section 115 of the Act is not an offence.

Division 1 Preliminary

5 Arrangements with customers

- (1) A carriage service provider of a specified service may make arrangements with a customer of the carriage service provider for the provider:
 - (a) to connect the customer to the service; and
 - (b) to rectify faults or service difficulties for the customer.
- (2) The carriage service provider must make reasonable efforts to obtain the agreement of its customers to the terms of arrangements, particularly in regard to connection and rectification periods.
- (3) The carriage service provider must comply with arrangements, made under this section, to which it is a party.
- (4) The carriage service provider must keep a record of its arrangements and retain a copy of the record for a period of not less than 2 years.
- (5) If, when making arrangements to connect a customer to a service, or to rectify a fault or service difficulty, a carriage service provider has relied, or is likely to rely, on an exemption, the carriage service provider must inform the customer of its reliance, or likely reliance, on the exemption when making the arrangements.

Note Part 3 deals with exemptions.

6 Information to be given to customers

- (1) As soon as practicable after a carriage service provider connects a customer to a CSG service, the carriage service provider must give written information to the customer about:
 - (a) the performance standards that apply to supply of specified services; and
 - (b) the obligations of the provider under those standards; and
 - (c) the customer's entitlements to damages under section 116 of the Act for contravention of a performance standard.

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- (2) The carriage service provider must, at least once in each period of 2 years, make available to its customers written information about:
 - (a) the performance standards that apply to supply of specified services; and
 - (b) the obligations of the provider under those standards; and
 - (c) the customers' entitlements to damages under section 116 of the Act for contraventions of those standards.

Example of information to be given to customers in writing

Publication of information in a telephone directory or as part of other general information published by the carriage service provider.

- (3) If a carriage service provider is asked by a customer of the carriage service provider for information about a performance standard, the provider must give the information to the customer.

7 Other information to be given to customers

- (1) This section:
 - (a) applies to a carriage service provider in relation to arrangements made under section 5 with a customer; but
 - (b) ceases to apply to the carriage service provider in relation to the customer and those arrangements when section 117A of the Act commences.
- (2) If, when making the arrangements, the carriage service provider is aware that it may not be able to comply with a performance standard, the provider must take reasonable steps to inform the customer about:
 - (a) that standard and the effect of the non-compliance (if any); and
 - (b) the liability of the provider to the customer for damages under section 116 of the Act for contravention of the standard.

8 Cooperation of customers with carriage service providers

- (1) Subject to subsection (2), a performance standard does not apply to a carriage service provider if:
 - (a) the carriage service provider has proposed to supply the customer with an interim service; and
 - (b) the customer has unreasonably refused to accept supply of that service.
- (2) A carriage service provider must not, without the agreement of a customer, supply the customer with an interim service at any time after the end of the 6 month period beginning when the carriage service provider first supplied, or offered to supply, an interim service to the customer.

- (3) In determining whether a carriage service provider has contravened a performance standard in relation to a customer, regard must be had to whether the customer:
- (a) requested the carriage service provider in good faith to connect a specified service or rectify a fault or service difficulty; or
 - (b) unreasonably withheld agreement to arrangements, or an appointment, proposed by the carriage service provider; or
 - (c) missed an appointment with the provider without giving reasonable notice to the provider; or
 - (d) unreasonably refused permission to the provider to enter a site.

Division 2 Connection to specified services

9 Guaranteed maximum connection periods

- (1) The period specified in Part 2 of Schedule 1 is the *guaranteed maximum connection period* for a customer if:
 - (a) the site at which the customer requests a specified service to be connected is in close proximity to an external plant facility used to supply the service; and
 - (b) the facility has sufficient capacity available to supply the service when the request is made.
- (2) However, if subsection (1) does not apply, the *guaranteed maximum connection period* for a customer is a period determined in accordance with an approved universal service plan for the area where the service is supplied or is being offered to be supplied.
- (3) A carriage service provider must comply with a request by a customer for connection in the guaranteed maximum connection period unless the arrangements for the connection include provision mentioned in section 10.
- (4) A customer is not taken to have made a request mentioned in this section to a carriage service provider until the customer has given to the carriage service provider the information reasonably required by the provider for those purposes.
- (5) This section does not apply if a customer who is connected by a carriage service provider to a specified service requests another carriage service provider to supply the service without connecting the customer to the service.

10 Arrangements about connection periods

- (1) Arrangements to connect a customer of a carriage service provider to a specified service may provide for connection in a period that is shorter than the guaranteed maximum connection period.
- (2) Arrangements to connect a customer of a carriage service provider to a specified service may provide for connection in a period that is longer than the guaranteed maximum connection period:
 - (a) if the customer wants the connection to be made on a day after the end of that period; or
 - (b) if:
 - (i) the carriage service provider makes an offer to the customer, and to a significant number of its other customers, to connect the service after the end of the relevant guaranteed maximum connection period; and

- (ii) the customer accepts the offer; and
- (iii) the customer would obtain a significant service benefit as a result of accepting the offer.

Example of a significant customer service benefit

A substantially cheaper price than would be charged to the customer for connecting the service in the guaranteed maximum connection period.

- (3) Before, or at the same time as, arrangements to which paragraph (2) (b) apply are made, the carriage service provider must inform the customer to the effect that:
 - (a) as a result of the arrangements, the connection will be made after the end of the guaranteed maximum connection period; and
 - (b) otherwise, the protection and rights under Part 5 of the Act apply in relation to supply of the service to the customer by the provider.

Division 3 Rectification of faults or service difficulties

11 Application of Division 3

This Division does not apply to a fault or service difficulty in relation to a CSG service in respect of:

- (a) call barring; or
- (b) a limitation on the making of external calls;

if the service was supplied to a customer of a carriage service provider with that feature because of the credit standing of the customer.

12 Guaranteed maximum rectification periods

- (1) This section applies to a site at which a specified service is supplied by a carriage service provider to a customer of the carriage service provider.
- (2) If the site is in an urban centre with a population equal to or greater than 10 000 people, the guaranteed maximum rectification period ends at the end of 1 working day after the carriage service provider receives the report of a fault or service difficulty made by the customer.
- (3) Subject to sections 13 and 15, if the site is:
 - (a) an urban centre with a population less than 10 000 people; or
 - (b) a locality or other recognised community grouping with a population equal to or greater than 200 people;the guaranteed maximum rectification period ends at the end of 2 working days after the carriage service provider receives the report of a fault or service difficulty from the customer.
- (4) Subject to sections 13 and 15, if the site is not mentioned in subsection (2) or (3), the guaranteed maximum rectification period ends at the end of 3 working days after the carriage service provider receives the report of a fault or service difficulty from the customer.
- (5) Subject to section 15, a carriage service provider must, in the relevant guaranteed maximum rectification period, rectify a fault or service difficulty that is reported to the carriage service provider by the customer.
- (6) In this section:
 - (a) a reference to an *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; and

- (b) a reference to a *locality* is a reference to a geographic area defined as a locality in accordance with criteria used by the Australian Bureau of Statistics for the most recent Australian Census.

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

13 Sites to which subsection 12 (3) or (4) applies

- (1) This section applies to a fault or service difficulty in relation to a specified service supplied to a customer at a site mentioned in subsection 12 (3) or (4), if:
- (a) the fault or service difficulty can be rectified without:
 - (i) external or internal plant work; or
 - (ii) the carriage service provider attending the premises of the customer; or
 - (b) the specified service has been disconnected by the carriage service provider as a result of an administrative error that does not involve damage to a facility.
- (2) The guaranteed maximum rectification period for the fault or service difficulty ends at the end of 1 working day after the carriage service provider receives a report from the customer about the fault or service difficulty.
- (3) If a person other than the customer reports on behalf of the customer a fault or service difficulty to the carriage service provider, the guaranteed maximum rectification period begins when the fault or service difficulty is reported.

14 Reports by carriage service providers of faults etc

- (1) This section applies to a carriage service provider (the *first provider*) if the carriage service provider becomes aware that:
- (a) there is a fault or service difficulty in the network of another carriage service provider (the *second provider*); or
 - (b) an act or omission of the second provider may contribute to the first provider being wholly or partly in contravention of a performance standard.
- (2) The first provider must report a matter mentioned in subsection (1) to the second provider as soon as practicable after the first provider becomes aware of the matter.

15 Arrangements about rectification periods

Arrangements to rectify a fault or service difficulty for a customer may provide for rectification in a period:

- (a) that is shorter than the guaranteed maximum rectification period; or
- (b) that is longer than the guaranteed maximum rectification period if the customer wants the fault or service difficulty to be rectified on a day after the end of that period.

Division 4 Appointments with customers

16 Interpretation

- (1) In this Division, a reference to a customer of a carriage service provider includes a reference to someone who represents the customer.
- (2) In this Division, a reference to a proposed appointment includes a reference to an appointment that is changed in accordance with subsection 17 (4).

17 Making and changing appointments

- (1) For the purposes of connecting a specified service or rectifying a fault or service difficulty:
 - (a) a customer of a carriage service provider may make an appointment with the carriage service provider; and
 - (b) a carriage service provider may make an appointment with a customer of the carriage service provider.
- (2) The day, and the time of day, proposed by the carriage service provider for an appointment must be convenient for the customer.
- (3) To comply with subsection (2), a carriage service provider may propose an appointment:
 - (a) for a particular time of day; or
 - (b) in the period between 2 particular times of day that are not more than 5 hours apart.
- (4) Either party to an appointment may change the day, time of day or location of the appointment:
 - (a) by giving at least 24 hours notice of the change to the other party; or
 - (b) by obtaining the agreement of the other party to the change.
- (5) A carriage service provider must keep an appointment to which the carriage service provider is a party.

18 Criteria for determining whether an appointment is kept

- (1) If a carriage service provider makes an appointment for a particular time of day, the carriage service provider is taken to have kept the appointment if the provider is present at the site of the appointment not later than 15 minutes after the time of the appointment.
- (2) If a carriage service provider makes an appointment for a period between 2 particular times of day that are not more than 4 hours apart, the carriage service provider is taken to have kept the appointment if the provider is present at the site of the appointment not later than 15 minutes after the end of the period.

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- (3) If a carriage service provider makes an appointment for a period between 2 particular times of day that are more than 4, but not more than 5, hours apart, the carriage service provider is taken to have kept the appointment if the provider is present at the site of the appointment within the period.
- (4) If a carriage service provider makes an appointment for a period at a site mentioned in paragraph 202 (c) or (d) of Schedule 1 between 2 particular times of day that are more than 4, but not more than 5, hours apart, the carriage service provider is taken to have kept the appointment if:
 - (a) the provider must travel a long distance to keep the appointment; and
 - (b) the provider is present at the site of the appointment not later than 45 minutes after the end of the period.
- (5) If a carriage service provider does not keep an appointment in accordance with this section, the carriage service provider is taken to have missed the appointment.

Note Under section 8, in determining whether a carriage service provider has contravened a standard in relation to the making of an arrangement or an appointment with a customer, regard must be had to whether the customer cooperated with the carriage service provider.

Part 3 Exemption from performance standards

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19 Supply of more than 5 eligible telephone services

- (1) If a carriage service provider supplies a customer with more than 5 eligible telephone services at one time, the carriage service provider is exempt from complying with a performance standard in relation to the supply of each of the services.
- (2) If a carriage service provider:
 - (a) is already supplying a customer with 5 eligible telephone services; and
 - (b) makes arrangements for the supply of 1 or more additional services to the customer —the carriage service provider is exempt from complying with a performance standard in relation to the supply of each of the services mentioned in paragraphs (a) and (b).

20 Maintenance and upgrades

- (1) A carriage service provider is exempt from complying with a performance standard in relation to the supply of a specified service to a customer to the extent that non-compliance with the standard is a result of maintenance or upgrading of a facility or network that is used to supply the service.
- (2) However, if an effect of non-compliance with the standard would be that a specified service is not supplied to a customer, the carriage service provider is not exempt unless the carriage service provider has given to the customer reasonable notice of the non-compliance.

Note The *Telecommunications (Emergency Call Service) Determination 1999* requires carriage service providers who supply standard telephone services to ensure that end-users have access to emergency call services under both normal and abnormal operating conditions.

21 Credit standing of customers

- (1) A carriage service provider is exempt from complying with a performance standard in relation to connection of a customer to a specified service if:
 - (a) the customer would be lawfully obliged to pay to the provider a charge for:
 - (i) connection to the service; or
 - (ii) the use of the service; and
 - (b) the carriage service provider has reasonable grounds to believe that the customer would be unable or unwilling to pay the charge as it is due to be paid.

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- (2) A carriage service provider is exempt from complying with a performance standard in relation to connection of a customer to a specified service if the customer has been disconnected from the service in the following circumstances, and remains disconnected:
- (a) the carriage service provider gave to the customer written notice that the provider considers that the customer had not paid a charge for:
 - (i) connection to the service; or
 - (ii) the use of the service;when it was due to be paid;
 - (b) the notice advised the customer that the customer could apply to the provider for reconsideration of the proposed decision to disconnect the service and, if not satisfied with the reconsidered decision, could make a complaint to the TIO about that decision;
 - (c) the notice offered the customer a period of 21 days, starting not earlier than when the customer received the notice, within which the customer could pay the charge or apply for reconsideration;
 - (d) within the period of 21 days, the customer:
 - (i) did not pay the charge; and
 - (ii) did not apply for reconsideration;
 - (e) the service was then disconnected.
- (3) A carriage service provider is exempt from complying with a performance standard in relation to connection of a customer to a specified service if the customer has been disconnected from the service in the following circumstances, and remains disconnected:
- (a) the carriage service provider gave to the customer the written notice mentioned in paragraph (2) (a);
 - (b) not later than 21 days after receiving the notice, the customer applied to the carriage service provider for reconsideration of the proposed decision to disconnect the service;
 - (c) the carriage service provider reconsidered the proposed decision after receiving the application for reconsideration, and confirmed the proposed decision;
 - (d) the customer did not make a complaint to the TIO about the decision on reconsideration within 7 days after receiving notice of the decision;
 - (e) the service was then disconnected.
- (4) A carriage service provider is exempt from complying with a performance standard in relation to connection of a customer to a specified service if the customer has been disconnected from the service in the following circumstances, and remains disconnected:
- (a) the carriage service provider gave to the customer the written notice mentioned in paragraph (2) (a);
 - (b) the carriage service provider reconsidered the proposed decision to disconnect the service in accordance with paragraph (3) (c), and confirmed the proposed decision;

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- (c) the customer made a complaint to the TIO about the decision on reconsideration within 7 days after receiving notice of the decision;
- (d) the TIO gave a direction about the complaint that had the effect of confirming the decision;
- (e) the service was then disconnected.

22 Circumstances beyond the control of carriage service providers

- (1) A carriage service provider is exempt from complying with a performance standard to the extent that non-compliance with the standard is a result of circumstances, beyond the control of the carriage service provider, that include (but are not limited to) the following circumstances:
 - (a) damage to a facility of the carriage service provider that is not caused by the carriage service provider;
 - (b) natural disasters, or extreme weather conditions, that:
 - (i) cause mass outage of specified services; and
 - (ii) restrict connection to a specified service or rectification of a fault or service difficulty;
 - (c) the carriage 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 connection to a specified service or rectification of a fault or service difficulty;
 - (d) the carriage service provider is prevented from connecting a specified service, or rectifying a fault or service difficulty, because the provider is unable to obtain lawful access to land or a facility;
 - (e) a law of the Commonwealth, or of a State or a Territory, otherwise prevents the carriage service provider from complying with the performance standard.
- (2) However, a carriage service provider is not exempt from compliance with the performance standard to the extent that:
 - (a) the non-compliance is due wholly or partly to the act or omission of another carriage service provider; and
 - (b) the exemption does not apply to the other carriage service provider.
- (3) Also, a carriage service provider is not exempt from compliance with the performance standard unless the carriage service provider has procedures in place to ensure that the provider does not rely on the exemption in circumstances that are not beyond the control of the provider.
- (4) In paragraph (1) (c):
 - 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

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- (iii) an ambulance service; and
- (iv) a local government authority.

23 Notice of exemptions to particular customers

- (1) This section applies to a carriage service provider who proposes to rely on an exemption under section 22.
- (2) Subject to section 24, the carriage service provider must give to each customer to whom the exemption relates a notice stating:
 - (a) the fact that the provider is relying on the exemption; and
 - (b) the circumstances on which that reliance is based; and
 - (c) if practicable, the estimate by the provider of the duration of the circumstances referred to in paragraph (b); and
 - (d) the entitlement of the customer to dispute the exemption by:
 - (i) requesting the provider to reconsider whether those circumstances are a proper basis for the exemption; and
 - (ii) making a complaint to the TIO to the effect that those circumstances are not a proper basis for the exemption; and
 - (e) information about how the customer may contact the provider in relation to the exemption.
- (3) The carriage service provider must give notice to a customer:
 - (a) if the circumstances to which an exemption relates are mentioned in paragraph 22 (1) (d) or (e) — not later than 14 weeks after the day on which the provider first takes action affecting the customer in reliance on the exemption; and
 - (b) in any other case — if practicable, not later than 5 working days after the day on which the provider first takes action affecting the customer in reliance on the exemption.
- (4) In estimating the duration of circumstances for the purposes of paragraph (2) (c), the carriage service provider must have regard to:
 - (a) the effect of those circumstances on the ability of the provider to comply with the relevant performance standard; and
 - (b) the resources that the provider would have to commit, proportionate to that effect, to:
 - (i) mitigate the consequences of the circumstances; and
 - (ii) minimise the duration of the circumstances.
- (5) A customer of the carriage service provider is not prevented from disputing an exemption on which the provider relies only because the provider has complied with this section.

24 General notice of exemptions

- (1) A carriage service provider who proposes to rely on an exemption under section 22 is not required to comply with section 23 if the carriage service provider:
 - (a) publishes the notice mentioned in subsection 25 (1); and
 - (b) as soon as practicable, gives to the ACA and the TIO:
 - (i) a copy of the notice; and
 - (ii) the telephone numbers of customers to whom the exemption relates; and
 - (c) provides on the Internet the information that is published in the notice.
- (2) As soon as practicable after a carriage service provider becomes aware that information given to the ACA and the TIO under paragraph (1) (b) is no longer current, or is otherwise inaccurate, the carriage service provider must give revised information to the ACA and the TIO in writing.

25 Public notification

- (1) For the purposes of paragraph 24 (1) (a), a carriage service provider must publish a notice in at least 1 edition of a daily newspaper circulating, if a customer to whom the exemption relates usually resides:
 - (a) in the capital of a State or Territory, in the capital; and
 - (b) in a region of a State or Territory outside the capital, in that region.
- (2) The notice must contain at least:
 - (a) the information referred to in paragraphs 23 (2) (a), (b), (c) and (d); and
 - (b) the specified services to which, and the ranges of telephone numbers of customers to whom, the exemption relates; and
 - (c) the approximate number of affected customers; and
 - (d) the district, local government area, suburb or town in which the exemption applies; and
 - (e) if the exemption only applies in a part of the area of a district, local government area, suburb or town — the roads bounding that area; and
 - (f) information about how the customer may contact the carriage service provider in relation to the exemption.
- (3) The notice must be published as soon as practicable after the day on which the carriage service provider first takes action affecting its customers in reliance on the exemption.
- (4) Each notice must display a unique numeric or alphanumeric identifier of the circumstances to which the exemption relates.
- (5) A carriage service provider must, on request by a customer of the carriage service provider, give to the customer a copy of a notice under this section.

Section 26

26 Cessation of exemptions

A carriage service provider ceases to be exempt from a performance standard:

- (a) if the circumstances to which the exemption relates are mentioned in section 19, 20 or 21 — when the circumstances cease to apply; or
- (b) if the circumstances to which the exemption relates are mentioned in section 22 — when the circumstances are no longer beyond the control of the carriage service provider.

27 Review of circumstances of certain exemptions

As regularly as practicable, a carriage service provider who is relying on an exemption under section 22 must review the circumstances on which the exemption is based to ensure that the estimated duration of the circumstances that are mentioned in paragraph 23 (2) (b) is no longer than necessary.

Section 29

Part 5 **Waiver of protection and rights by customers**

Do not delete : Division Placeholder

Note Section 120 of the Act provides that the ACA may make provision for customers of carriage service providers to waive their protection and rights.

29 **Waivers in writing**

- (1) A customer of a carriage service provider may waive, wholly or partly, the protection and rights of the customer under Part 5 of the Act in relation to a carriage service supplied, or offered to be supplied, by the carriage service provider if the waiver is in writing that is signed and dated by the customer.
- (2) The document must clearly identify the customer, the carriage service provider and the specified service to which the waiver applies.

30 **Other waivers**

- (1) A carriage service provider may propose to a customer of the carriage service provider that the customer waive, wholly or partly, the protection and rights of the customer under Part 5 of the Act in relation to a carriage service supplied, or offered to be supplied, by the provider.
- (2) The proposal must:
 - (a) state the protection and rights of the customer under Part 5 of the Act that would be foregone as a result of accepting the proposal; and
 - (b) state the protection and rights of the customer under that Part of the Act that would not be foregone as a result of accepting the proposal; and
 - (c) provide that the customer would obtain a significant service benefit as a result of accepting the proposal.

Example of a significant customer service benefit

A substantially cheaper price than would otherwise be charged for the service.

- (3) As soon as practicable after the customer accepts the proposal, the carriage service provider must give to the customer a written statement of the information mentioned in subsection (2) that clearly identifies the customer, the provider and the service to which the waiver applies.
- (4) The waiver mentioned in a proposal made to a customer by a carriage service provider takes effect at the end of the period of 7 days after the day on which the statement mentioned in subsection (2) is given to the customer unless, before the end of that period, acceptance of the proposal is withdrawn by the customer.
- (5) A carriage service provider must keep a record of a waiver by a customer of the carriage service provider for not less than 2 years after the day on which the waiver took effect.

Schedule 1 Guaranteed maximum connection periods — sites in close proximity to external plant facilities

(subsection 9 (1))

Part 1 Interpretation

101 References to in-place connections

A reference in Part 2 of this Schedule to an in-place connection is a reference to the connection of a specified service at a site where a previous working CSG service:

- (a) has been cancelled; and
- (b) is available for automatic reconnection or reactivation by a carriage service provider.

102 References to geographic areas

- (1) A reference in Part 2 of this Schedule to an 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) A reference in Part 2 of this Schedule to a locality is a reference to a geographic area defined as a locality in accordance with criteria used by the Australian Bureau of Statistics for the most recent Australian Census.

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

Part 2 Guaranteed maximum connection periods

201 Sites with in-place connections

If a site at which a customer requests a carriage service provider to connect a specified service has an in-place connection, the guaranteed maximum connection period is 2 working days after the carriage service provider receives the request.

202 Other sites

If item 201 does not apply, the guaranteed maximum connection period is:

- (a) if the site at which a customer requests a carriage service provider to connect a specified service is in an urban centre with a population equal to or greater than 10 000 people — not later than 5 working days after the carriage service provider receives the request; and
- (b) if the site at which a customer requests a carriage service provider to connect a specified service is in an urban centre, locality or other recognised community grouping with a population greater than 2 500 but not greater than 10 000 — not later than 10 working days after the carriage service provider receives the request; and
- (c) if the site at which a customer requests a carriage service provider to connect a specified service is in an urban centre, locality or other recognised community grouping with a population greater than 200 but not greater than 2 500:
 - (i) before and including 30 June 2001 — not later than 30 working days after the carriage service provider receives the request; and
 - (ii) after 30 June 2001 — not later than 15 working days after the carriage service provider receives the request; and
- (d) if paragraph (a), (b) or (c) does not apply to the site at which a customer requests a carriage service provider to connect a specified service:
 - (i) before and including 30 June 2001 — not later than 30 working days after the carriage service provider receives the request; and
 - (ii) after 30 June 2001 — not later than 15 working days after the carriage service provider receives the request.

Schedule 2 Categories of contravention of performance standards and damages

(section 28)

Part 1 Interpretation

101 References to delays

- (1) A reference in Part 2 of this Schedule to a delay is a reference to a contravention of a performance standard for a specified service by:
 - (a) exceeding the guaranteed maximum connection period specified in the performance standard; or
 - (b) exceeding the guaranteed maximum rectification period specified in the performance standard; or
 - (c) if a carriage service provider and a customer of the carriage service provider arranged for a specified service to be connected, or for a fault or service difficulty to be rectified, on or by a particular day or in a particular period — not complying with those arrangements.
- (2) However, a reference to a delay in Part 2 of this Schedule is not a reference to a contravention of a performance standard for a specified service if a carriage service provider provides the customer with an interim service for the duration of the delay.

102 References to residential/charity customers

A reference in Part 2 of this Schedule to a residential/charity customer is a reference to:

- (a) a residential customer; or
- (b) a customer that is a charitable or welfare organisation.

103 References to business customers

A reference in Part 2 of this Schedule to a business customer is a reference to a customer except a residential/charity customer.

Part 2 Contraventions and damages

Item	Contraventions	Damages
201	Delay in connecting a CSG service, whether or not the service includes an enhanced call handling feature	<p>The damages payable, for each working day of delay, to the customer who requested the connection are:</p> <ul style="list-style-type: none">(a) in the first 5 working days of delay:<ul style="list-style-type: none">(i) \$12, if the customer is a residential/charity customer; and(ii) \$20, if the customer is business customer; and(b) after the first 5 working days of delay — \$40
202	Delay in connecting an enhanced call handling feature to an existing CSG service	<p>The damages payable, for each working day of delay, to the customer who requested the connection are:</p> <ul style="list-style-type: none">(a) in the first 5 working days of delay, if 2 or more features have not been connected:<ul style="list-style-type: none">(i) \$12, if the customer is a residential/charity customer; and(ii) \$20, if the customer is a business customer; and(b) in the first 5 working days of delay, if paragraph (a) does not apply:<ul style="list-style-type: none">(i) \$6, if the customer is a residential/charity customer; and(ii) \$10, if the customer is a business customer; and(c) after the first 5 working days of delay:<ul style="list-style-type: none">(i) if 2 or more features have not been connected — \$40; and(ii) if subparagraph (i) does not apply — \$20

Item	Contraventions	Damages
203	Delay in rectifying a fault or service difficulty of a CSG service, whether or not the service includes an enhanced call handling feature	The damages payable, for each working day of delay, to the customer whose service required rectification are: <ul style="list-style-type: none"> (a) in the first 5 working days of delay: <ul style="list-style-type: none"> (i) \$12, if the customer is a residential/charity customer; and (ii) \$20, if the customer is a business customer; and (b) after the first 5 working days of delay — \$40
204	Delay in rectifying a fault or service difficulty of an enhanced call handling feature of a CSG service that does not prevent operation of the service	The damages payable, for each working day of delay, to the customer whose service required rectification are: <ul style="list-style-type: none"> (a) in the first 5 working days, if 2 or more enhanced call handling features have not been rectified: <ul style="list-style-type: none"> (i) \$12, if the customer is a residential/charity customer; and (ii) \$20, if the customer is a business customer; and (b) in the first 5 working days of delay, if paragraph (a) does not apply: <ul style="list-style-type: none"> (i) \$6, if the customer is a residential/charity customer; and (ii) \$10, if the customer is a business customer; and (c) after the first 5 working days of delay: <ul style="list-style-type: none"> (i) if 2 or more features have not been rectified — \$40; and (ii) if subparagraph (i) does not apply — \$20
205	Missing an appointment on a day that is not a day in relation to which damages calculated in accordance with item 201, 202, 203 or 204 are payable	The damages payable, for each missed appointment, to the customer with whom the appointment was made are: <ul style="list-style-type: none"> (a) \$12, if the customer is a residential/charity customer; and (b) \$20, if the customer is a business customer

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