nbn™ submission on ACMA consultation paper

New rules to protect consumers migrating to the National Broadband Network Part 2: Improving consumer information and ensuring service continuity and quality

11th May 2018

Public Version
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1 Introduction


nbn places a high priority on assisting access seekers and other carriage service providers (CSPs) to provide the Australian public with an outstanding customer experience when using services provisioned on the nbn™ broadband access network (Network). Bill Morrow, our Chief Executive Officer has recently reiterated, “This nationwide rewiring of telecommunications is one of the most significant infrastructure initiatives in Australia’s history. We know we need to work closely with our industry partners to ensure this is a success and will work tirelessly to be sure this happens.”

As the ACMA is aware, nbn is currently in an advanced stage of rollout enabling more than 6.5 million Australian homes and businesses to connect to telecommunications services over the Network. Alongside this, we have sought to deliver on our commitment to improving customer experience for consumers migrating and using services provided over the Network, including via the publication of monthly progress reports with regular updates. Brad Whitcomb, nbn’s Chief Customer Officer – Residential has also stated “NBN Co is working hard with our delivery partners and phone and internet providers to help them give end users the best packages available, improve the levels of services and work to get them connected quickly.”

In that context, we are pleased to provide our comments on the specific terms and provisions outlined in the draft instruments and look forward to further engaging with the ACMA moving forward, including by way of ensuring that matters identified below are understood in detail. At this time, we also wish to take this opportunity to commend the ACMA for the collaborative manner in which they have approached this consultation to date.

2 Customer Information Standard

2.1 Minimum requirements for information

Our understanding of the Telecommunications (NBN Consumer Information) Industry Standard 2018 (Customer Information Standard) is that it is intended to apply only to CSPs that supply services, using the Network directly to consumers (retail CSPs). Therefore, the scope of the Standard is not directed at wholesale aggregators or nbn which don’t have direct relationships with the consumer. nbn supports this approach.

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5 National Broadband Network Companies Act 2011, section 9, subject to the exemptions in sections 10-16.
Consumers need clear and accurate information as to how their retail products will perform, in order to inform their choice of voice and broadband services and so they can adequately understand the variances between services when transitioning to a retail service supplied over the nbn™ network. Retail CSPs not only have the direct relationship with consumers to facilitate these needs but they are also the sole party with a complete view of the end-to-end product taken by the consumer.

nbn has received feedback from its access seeker customers that they prefer to provide information to consumers about the nbn services they offer. We support their desire to manage the contractual interactions with their customers and therefore support the application of the Standard. This is also consistent with the parameters set for nbn under the National Broadband Network Companies Act that it must not supply an eligible service to a person unless they are a carrier or a service provider.

nbn also notes that many of the definitions used by the ACMA in the Customer Information Standard are similar terms to those proposed in the Telecommunications Service Provider (NBN Line Testing) Determination 2018 and Telecommunications (NBN Continuity of Service) Standard 2018. We suggest the definitions under the Customer Information Standard mirror our suggestions on any relevant definitions below.

2.1.1 Format of Key Fact Sheet to consumers

nbn acknowledges the rollout of the Network is a once in a generation activity that will impact most Australians - accordingly steps to ensure consumers properly understand this process are welcomed.

To that end, nbn supports the intent of the Standard to ensure all customers receive at least a minimum level of consistent and quality information about retail services supplied over the Network.

It would however be reasonable to allow some flexibility on the method of communication a retail CSP uses to provide this information. While we note that the methods and timeframes by which the information has been mandated is consistent with terms expressed under the Telecommunications Consumer Protections Code, we believe that care should be taken to ensure that the drafting of the Standard allows retail CSPs appropriate flexibility to incorporate the fact sheet information about nbn services into other media, where this can be streamlined for consumers.

2.1.2 Minimum requirements and advertising material on data speeds

nbn considers that in order for consumers to receive clear information about broadband products, retail CSPs should play a lead role in educating consumers on the relevant attributes of their retail nbn broadband services, including the speeds they can expect to receive and what this speed means in practice for their online experience.

At this point in time, the established method of providing advice to consumers about a retail nbn broadband service’ speed performance is as described in the Australian Competition and Consumer Commissions’ Broadband Speed Claims: Industry Guidance. nbn encourages the ACMA to ensure that requirements for retail CSPs to provide advice to consumers about possible speeds and speed tiers is consistent across all guidance provided by the two regulators; and is also consistent across the many forms of customer information material, and advertising and marketing material offered to consumers. Conflicting advice to consumers because of differing regulatory obligations has the potential to create significant confusion.

2.1.3 Minimum requirements - online usage
nbn supports the view that consumers should choose a speed plan with their retail CSP that is based on an assessment of their online needs. However, nbn suggests care should be taken when mandating information about online usage and, in particular the number of devices in a household under subclause 8(c). This requirement will be difficult to comply with given the wide variety of usage types, and that the number of devices potentially online at the same time is extremely variable. As ‘Internet of Things’ devices become more prevalent in circumstances where multiple devices are connected within a household at the same time, many of which use very little bandwidth, typical online usage will become increasingly difficult to describe. On the flipside, nbn recognises that too much prescription in providing this requirement may create material that becomes misleading and confusing on its own.

nbn suggests that an indication of the number of people using connected devices, and the activities they are undertaking concurrently is likely to provide more useful information. For example, data used when two teenagers are gaming vs two adults checking their emails is quite different.

2.1.4 Technical information

As currently drafted, section 9(a) of the Customer Information Standard states that:

A key facts sheet referred to in section 7 must:

(a) state that NBN services are unlikely to function during a power failure unless the NBN service is connected using FTTP and a NBN battery backup power supply unit is also installed and working; and...

nbn suggests this provision be amended to “state that nbn services will not function during a power failure unless the nbn service is connected using FTTP and an nbn battery backup power supply unit is also installed and working”. This is consistent with nbn’s own messaging to the public, including on our website, and will assist in maintaining clarity for consumers across all industry members.

2.1.5 Medical alarm information

The ACMA has sought feedback on the interaction between the existing battery back-up information which retail CSPs are required to provide under the Backup Power and Informed Decisions Service Provider Determination (Service Provider Determination) and the proposed Customer Information Standard requirements that this information be included in a Fact Sheet7.

In this regard, nbn believes that the level of information which retail CSPs are required to provide to consumers under the Service Provider Determination is adequate and can be maintained. Accordingly, duplicated provisions in the Service Provider Determination and the Customer Information Standard are likely to be unnecessary. However, this will be a matter for retail CSPs to determine, in the context of how they provide this information to their potential and existing customers.

nbn supports the reference to the nbn’s Medical Alarm Register, as set out in sections 10 and 12 of the Customer Information Standard, as currently drafted. We would also encourage retail CSPs to ask consumers whether they wish to continue using any medical or security alarm and, if so, advise them to:

- check with their medical alarm provider or equipment manufacturer, whether the alarm is compatible with nbn based services and their alarm migration options, before they connect to nbn; and
- register their medical alarm service on the nbn Medical Alarm Register on nbn’s website or contact the nbn contact centre on 1800 227 300 for assistance.

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7 ACMA, New rules to protect consumers migrating to the NBN Part 2: Improving consumer information and ensuring service continuity and quality, p7.
It may also be beneficial to consumers to include advice on monitored fire alarms and lift phone services' where there is discussion of these types of alarms:

- to check with their device provider about migration options (including nbn alternatives) before they connect to the nbn; and
- to register their service on nbn’s Fire & Lift Register.⁸

## 3 Line Testing Determination

### 3.1 Summary

nbn notes the Line Testing Determination applies to retail CSPs. nbn broadly supports the intent of the Determination to provide steps, where they have not already been undertaken by retail CSPs, to check the consumer’s service is working once all procedures in the nbn connection process have been successfully completed by both nbn and the retail CSP. We note that many CSPs already undertake their own testing to ensure consumer’s nbn services are up and running before any connection activity is deemed to be completed by them.

Further consideration is required on the following topics:

- that the Layer 3 speed tests, in particular, be standards-based to ensure consumers are receiving consistent measurements across all retail CSPs; and
- that measurement of a consumer speed tier be aligned with the ACCC Broadband Speed Claims Guidance methodology.

Finally, we caution that any requirement that encourages a retail CSP to move consumers to a lower speed tier without the retail CSP having first taken steps to improve that customer’s speed, may be counterproductive to achieving a positive consumer experience, enhancing widespread broadband evolution generally, and to nbn’s SOE build targets and Focus on 50 campaign.

### 3.2 Definitions

nbn offers the following comments on the ACMA’s proposed definitions. We note that given the significant complexity and variety of operational processes that may be impacted by the terms of the Line Testing Determination, it is crucial to ensure that any ambiguity or incorrect use of terms be reviewed and appropriately addressed.

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<table>
<thead>
<tr>
<th>Draft definition</th>
<th>nbn’s suggested amendment</th>
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| **activated** means the consumer’s premises have been connected to the NBN and a modern has been connected inside the premises and that modem has been turned on. | Amend with the following:  

“**Activated** means the consumer’s premises have been connected to the nbn such that there is no impediment to a carriage service provider providing a service to that consumer.”  

This definition is used in section 8 of the Line Testing Determination in the context of triggering the requirement for the CSP to conduct post-activation testing for both the voice and broadband service.  

Care must be taken for this definition to be used at the appropriate time. If an order is on hold or put into a ‘pending’ status, nbn does not consider the broadband service to be activated. When nbn completes an order for the nbn component of the consumer’s service, there may not be an active service from the consumer’s perspective if they have not have received the customer premises equipment.  

Further, reference to a modem needs to be clarified as in some circumstances it may be appropriate to refer to the NTD indoor unit or alternatively in some cases the consumer/CSP wireless router. |
| **Layer 2 line speed** means the layer 2 synchronisation rate between a modem and a digital subscriber line access multiplexer | Amend to include:  

“**Layer 2 line speed** means the calculated layer 2 downstream synchronisation rate between a modem and a digital subscriber line access multiplexer, or a distribution point unit, where relevant.”  

This amendment is suggested because FTTC services utilise a distribution point unit (DPU), not a digital subscriber line access multiplexer. |
<table>
<thead>
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<tbody>
<tr>
<td><strong>Layer 3 speed tests</strong> means measurement of the layer 3 downstream data rate between a modem, or a device connected to a modem, and a server</td>
<td>Delete ‘device connected to a modem’ - for example, Wi-Fi connections from the modem to other devices should not be considered a factor that is under any realistic control of the retail CSP or nbn. We also note that end user speed and experience is impacted by other characteristics of the home network (such the general nature and status of end user devices including the relative age and condition of computers and other devices) as well as the geographic location of content. End user experience when accessing content from overseas is impacted, for example, by the amount of international bandwidth acquired by the CSP. The generic term ‘server’ also needs additional clarity as a server could be any of a very wide range of different network components, each of which would provide potentially radically different speed test results. nbn strongly suggests that the ACMA ensure all tests undertaken are consistent and comparable. nbn recommends a standard based speed test such as the Broadband Forum’s TR143 - <em>Enabling Network Throughput Performance Tests and Statistical Monitoring</em>. This test is already supported on some modems/gateways, and can be supported in respect of services where the CSP is supplying the modem/gateway. Adoption would ensure a consistent speed test mechanism that all CSPs can use. nbn also notes that speed tests will not be possible in situations where the modem itself does not incorporate characteristics permitting testing (e.g. where an end user supplies their own non-compliant modem).</td>
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<td><strong>line capability testing</strong> means a test which:</td>
<td>This definition is only used in the context of section 9, which only applies to next-generation nbn broadband services. Accordingly, “nbn service” should be replaced with “next-generation nbn broadband service” in this definition also. For example, voice services do not require a speed test.</td>
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<td>(a) determines the layer 2 line speed of the NBN service; and</td>
<td></td>
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<td>(b) is performed on the part of the network unique to the consumer.</td>
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<td><strong>NBN service</strong> means a carriage service supplied using the NBN and includes a NBN broadband service, or a NBN voice service or both.</td>
<td>nbn believes there is no change required to this definition if the underlying definitions below are adequately addressed.</td>
</tr>
<tr>
<td>Draft definition</td>
<td>nbn’s suggested amendment</td>
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<td><strong>NBN broadband service</strong> means a broadband carriage service supplied using the NBN, but does not include a NBN voice service.</td>
<td>Amend with the following: “nbn broadband service means a broadband carriage service supplied using an nbn Ethernet product, but does not include an nbn voice service.”</td>
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<td>nbn proposes a new definition be added: “nbn™ Ethernet has the meaning given in the wholesale broadband agreement between NBN Co and retail carriage service providers published on NBN Co’s website at <a href="https://www.nbnco.com.au/sell-nbn-services/supply-agreements/wba.html">https://www.nbnco.com.au/sell-nbn-services/supply-agreements/wba.html</a>, as amended from time to time.”</td>
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<td><strong>NBN voice service</strong> means a voice telephony service supplied using the NBN, but does not include a public mobile telecommunications service or a NBN broadband service.</td>
<td>Amend with the following: <em>nbn</em> voice service means a <strong>standard telephone service</strong> that may be supplied by a carriage service provider <strong>over an nbn Ethernet product</strong>, and does not include a public mobile telecommunications service, an <strong>nbn broadband service</strong>, or any other over-the-top voice services.”</td>
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<td><strong>next-generation NBN broadband service</strong> means a next-generation broadband service using the NBN.</td>
<td><strong>nbn</strong> supports the use of this definition.</td>
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<td><strong>next-generation broadband service</strong> has the same meaning as set out in regulation 4.2 of the Telecommunications Regulations 2001</td>
<td><strong>nbn</strong> supports the use of this definition. Note: the meaning of a next-generation broadband service set out in regulation 4.2 of the Telecommunications Regulations 2001 is one of the following services: (a) VDSL; (b) VDSL2; (c) VDSL2 with vectoring; (d) G.fast; or (e) a service that uses a successor technology to any other next-generation broadband service.</td>
</tr>
<tr>
<td><strong>non-operational</strong> means a NBN service where post-activation testing indicates that the service is not working and cannot be used by a consumer who has entered into a consumer contract with a retail carriage service provider for the supply of that service.</td>
<td><strong>nbn</strong> suggests this definition be deleted and the body of the Line Testing Determination simply refer to “not operational”. Alternatively, this definition should be amended to “an <strong>nbn</strong> service that is not operational”.</td>
</tr>
<tr>
<td><strong>part of the network unique to each consumer</strong> means the part of the network located between the modem in the consumer’s premises and the digital subscriber line access multiplexer.</td>
<td>Amend to include: “<strong>Part of the network unique to each customer</strong> means the part of the network located between the modem in the consumer’s premises and the digital subscriber line access multiplexer or distribution point unit, where relevant.” This amendment will cater for tests conducted over FTTC where the network elements are slightly different.</td>
</tr>
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**Draft definition**

**speed tier** means the maximum download and upload wholesale access speed of a NBN broadband service measured in megabits per second (Mbps), that NBN Co provides, and is used by retail carriage service providers to create NBN consumer plans, including the following speed tiers:

(a) NBN broadband service - speed tier 12/1 (Mbps);
(b) NBN broadband service - speed tier 25/5 (Mbps);
(c) NBN broadband service - speed tier 50/20 (Mbps);
(d) NBN broadband service - speed tier 100/40 (Mbps); and
(e) any other NBN broadband speed tier that is, or becomes, available.

**nbn’s suggested amendment**

The speed tiers identified in the ACMA’s definition are nbn’s wholesale layer 2 speeds. We do not believe these are not appropriate to define a layer 3 retail broadband plan speed as offered by retail CSPs to consumers. The latter will be impacted by the retail CSP’s own network configuration. We suggest this definition be deleted and replaced with:

“Speed tier range means the speed or speed range as advertised by the carriage service provider and sold to the consumer.”

We then suggest adding a note: “Acceptable speed tier ranges should be consistent with the ACCC’s Broadband Speed Claims Industry Guidance, August 2017”.

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**3.3 Part 2 – Rules relating to line testing following service activation**

**3.3.1 Section 8**

As currently drafted, section 8(1) of the Line Testing Determination states that:

*Post-activation Testing*

(1) Within one working day after a NBN service has been activated for the first time, the retail carriage service provider providing the service must perform post-activation testing to determine whether or not the service is operational.

As discussed above, it will be crucial to clarify what ‘activated’ means. From an nbn perspective, the layer 2 component of an nbn broadband service will not be deemed to be activated until an nbn Order Complete Notification has, at the very least, been provided to the access seeker. It is then nbn’s expectation that the relevant retail CSP will conduct whatever additional steps are needed in their interaction with the consumer to ensure that customer premises equipment (CPE) and other equipment are successfully delivered and set up, any porting or number transfer activity has occurred and sufficient CVC capacity has been arranged to supply the terms of consumer’s advertised retail plan.

nbn understands the ACMA’s use of the phrase ‘after a nbn service has been activated for the first time’ in Section 8 to mean that the tests referred to under section 8 will only apply after the customer has moved from a legacy service to a service delivered over the nbn™ network. nbn understands that the intention of this clause is that, once ‘migration’ (i.e. an nbn connection) has been completed, Part 2 should not apply again for that individual service.
Therefore, any subsequent movement of a service between retail CSPs (e.g., where a customer from an nbn service with CSP A transfers to an nbn service with CSP B at the same premises) should not be in scope for this Determination. There are already established industry processes that cater for industry transfers (e.g. C647:2017 NBN Access Transfer).

3.3.2 Section 9 - Line capability testing for next-generation nbn broadband services

As currently drafted, section 9 of the Line Testing Determination states that:

(1) This section applies to NBN services that are next-generation NBN broadband services.
(2) As soon as practicable after a next-generation NBN broadband service becomes operational, the retail carriage service provider providing the service must perform line capability testing.
(3) If a line capability test undertaken pursuant to subsection (2) indicates that the part of the network unique to the consumer is not capable of providing the layer 2 line speed for the applicable speed tier specified in the NBN consumer plan sold to the consumer, then the retail carriage service provider must advise the consumer of:
   (a) the result of the line capability testing; and
   (b) the remedies available to the consumer.

nbn notes that this section only applies to “next-generation NBN broadband services10”, which are the services supplied over FTTN/FTTB/FTTC access technologies. nbn HFC, FTTP, fixed wireless and Satellite access networks are not next-generation broadband services as defined and therefore are not in scope for this Part of the Line Testing Determination. nbn supports this intent.

3.3.3 Section 10 - Charging

nbn notes that section 10 is directed at retail CSPs however, in nbn’s view, it is highly impractical to prevent consumers being charged for the service, as opposed to being reimbursed, once the service has been deemed operational.

We understand that industry has expressed a preference for retail CSPs to reimburse their customers should it be determined post-activation that these customers have not reached a sufficient speed threshold and are thus not consistently receiving the services at the speeds they had contracted to receive. nbn is supportive of this approach on the basis that it will ensure that impact to retail CSPs’ current billing and provisioning systems and to the existing contractual arrangements between nbn, wholesale aggregators and retail CSPs is minimised.

nbn also recommends that section 10(b) be drafted to align with the practices outlined by ACCC Broadband Speed Claims Industry Guidance, particularly in terms of speed ranges and minimum thresholds before any activity relating to changing a customer to a lower speed tier is mandated.

3.4 Part 3 – Consumer requests for line speed testing

3.4.1 Section 11 – Service speed testing

As currently drafted, section 11 of the Line Testing Determination states that:

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10 That is, one of the following “services”: (a) VDSL; (b) VDSL2; (c) VDSL2 with vectoring; (d) G.fast; or (e) a service that uses a successor technology to these services.
(4) If the layer 3 speed tests performed pursuant to subsection (3) indicate that the average download speed over the five layer 3 speed tests is below the typical download speed in peak times specified in the consumer’s NBN consumer plan, then within 3 working days the provider must do at least one of the following:

a) take steps to improve the download speed of the consumer’s NBN broadband service so that it meets either of the speeds referred to in paragraphs (a) and (b), whichever is applicable;
b) offer to change the consumer’s NBN consumer plan to a lower speed tier; or
c) offer the consumer a reduction in the cost of their bill or a refund to compensate for the slower speed; or

provide an alternative solution that is agreed to by the consumer.

While nbn appreciates section 11(4) is directed at retail CSPs, we also note there may be some unintended consequences should the outcome of these options providers must undertake leads to a substantial shift in the wholesale speed tiers retail CSPs order on behalf of their customers.

Under the Broadband Policy objectives of the NBN Co Ltd Statement of Expectations 24 August 2016, the Government has stated that it is “committed to completing the network and ensuring that all Australians have access to very fast broadband as soon as possible, at affordable prices, and at least cost to taxpayers. The Government expects the network will provide peak wholesale download data rates (and proportionate upload rates) of at least 25 megabits per second to all premises, and at least 50 megabits per second to 90 per cent of fixed line premises as soon as possible…”

In addition, nbn has spent considerable effort over the past 6 months revising its CVC pricing to encourage retail CSPs to adopt higher speed AVC plans for its customers. By all accounts, this initiative has been extremely successful. nbn reported that by March 2018 the percentage of homes and businesses on a 50Mbps (download) wholesale speed plan or higher had reached 37%.11 It would be unfortunate if the requirement to change a consumer’s plan to a lower speed tier frustrated these targets.

nbn would prefer the ACMA’s direction on when an offer must be made to a consumer to move to a lower speed plan be consistent with the thresholds recommended by the ACCC Broadband Speed Claims Industry Guidance.

We refer the ACMA to two sections of the ACCC Industry Guidance in particular as set out below:

1) The ACCC’s Principle 4 suggests that where factors are known to affect service performance these should be made known to the consumer. The ACCC’s guidance to comply with this principle goes on to advise that:

“5.19 Information should be disclosed to consumers both at the point of sale, and throughout the retail contract, as to whether there are limitations (in either the access network or the RSP’s network) that will likely cap the speed at which the consumer’s connection can operate below the wholesale access speed or busy period speeds at which the plan typically operates, either on a short term or on a more permanent basis.

5.20. For instance, disclosures should be made to affected consumers where any of the following matters arise:
(a) technology-specific service limitations, and in particular limitations arising from the copper line that is used to connect a premise to a FTTB or FTTN network (discussed further below)
(b) current and anticipated network congestion in specific geographic or network areas

(c) actual or pending outages or relevant changes to the access network or RSP network. For each such matter, the RSP should identify the resulting short and long term service limitations that are likely to arise, the steps being taken to resolve them, its current status, and an estimated timeframe for resolution (including start and end dates/times)."\(^{12}\)

The ACMA’s requirement that where “the average download speed over the five layer 3 speed tests is below the typical download speed in peak times” for a particular consumer’s plan must be used as the trigger for retail CSPs to undertake one of the mandatory steps under section 11(4) does not take into account this advice. There may be specific service limitations that have already been advised to the consumer as a function of the access network type or are present at a particular point in time in the network. The limitations allowed to be advised to the consumer under the ACCC’s guidance above are not factored in to this average download speed test mechanism.

2) Importantly for nbn services provided over FTTB and FTTN technologies, there will be many instances where a broadband service won’t meet a maximum download speed. The ACCC guidance suggests that the actual speed and performance data might not be available for FTTB and FTTN technologies, and therefore there may not be a ‘typical download speed in peak times’ specified in the consumer’s plan.

The ACCC’s guidance states:

“Services utilising FTTB and FTTN technologies

5.22. Some services utilising FTTB and FTTN technologies may be subject to performance limitations as a result of individual copper lines to such an extent that typical plan speed information would not be an accurate representation of those particular services.

5.23. Consequently, where an RSP sells a service to a consumer that will use FTTB or FTTN technologies, the RSP should have regard to the best available information they have about the likely performance of that service and provide additional information and/or advice to the consumer.

5.24. In this regard, NBN Co (and potentially other FTTB and FTTN network operators) currently provides performance information to RSPs in relation to services supplied over FTTB and FTTN technologies. RSPs can also potentially test individual connections themselves independent of the network operator.

5.25. However, for services migrating to a new network, there can be uncertainty as to whether estimated line speeds (derived from engineering models based on copper line length) provide a reliable measure of the maximum attainable speeds that will be achievable. Those models generate an upper and lower range, however, the actual maximum attainable line speed (which can be confirmed on activation of the service) may be outside of this range due to line-specific factors that were unknown at the time the estimates were made.”\(^{13}\)

nbn also suggests that taking steps to implement section 11(4)(a) may take longer than 3 working days, particularly if rectification requires determining congestion issues, ordering additional CVC capacity, resolving CPE issues, in-home wiring or determining whether they are any number of other factors, e.g. placement of a modem within a consumer’s premises, at play.

\(^{12}\) ACCC, Australian Competition and Consumer Commissions’ Broadband Speed Claims: Industry Guidance, p11.

\(^{13}\) ACCC, Australian Competition and Consumer Commissions’ Broadband Speed Claims: Industry Guidance, p12.
Finally, further consideration is needed to guide what a CSP may be required to do if the customer has already contracted to be connected to the lowest speed tier.

3.4.2 Speed test method

nbn recommends a standard-based speed test such as TR143 be used to ensure there is consistency across all CSPs. This standard is already supported on some modems/gateways and can be supported on services where the retail CSP is supplying the modem/gateway. This will ensure a consistent speed test mechanism that all CSPs can use that will also allow comparison between CSPs as well as with nbn’s speed test that will be based on TR143. If everyone uses the same method then it is easy to compare.

ACMA should also understand that end user experience can also be impacted by the in-home network (such as Wi-Fi), end user devices (e.g. old tablets and personal computers, some with viruses). Where content is downloaded is coming from will also impact speed, e.g. if a CSP is not buying sufficient international bandwidth then the experience when accessing content from overseas will be impacted.

It should also be noted that a speed test will not be possible in all situations where a consumer is supplying their own modem/gateway or in circumstances where a particular type of gateway will have limited capability anyway.

3.4.3 Section 12 – Record-keeping

As this section is directed at retail CSPs, nbn will not comment.

4 Service Continuity Standard

4.1 Summary

nbn supports the underlying focus of the Service Continuity Standard that disruption to consumers should be minimised where possible during the course of rolling out nbn broadband services across Australia. nbn is continuing to do its part in working with retail CSPs to enable a great customer experience.

nbn understands it has been the ACMA’s intention to craft the obligations in manner that should allow retail CSPs to offer alternative services as a preference before any supply of the consumer’s legacy service is required to be re-instated.

Where an nbn service is provided over FTTP, HFC, Fixed Wireless and Satellite, nbn notes that the supply of a legacy service is not impacted by the connection of the nbn service. Therefore while we understand the impact that may be felt by the retail CSP, and will delay an nbn connection, from nbn’s view this proposal is likely to be operationally achievable as an interim step.

However for FTTN/FTTB/FTTC, there are components of the Service Continuity Standard as currently drafted that, if they are made into regulation, will significantly disrupt the arrangements the telecommunications industry has established over many years and not achieve the original objective.

nbn’s concerns include the following:

- for retail services provided over FTTN, FTTB, and FTTC, having to reverse an nbn connection so as to supply the legacy service while any issues with a connection are in the process of being mitigated is not in the interests of the consumer.
It will be costly for the industry, add further delay to the rollout for that individual consumer and prevent both the RSP and nbn expediting the migration of the consumer to an nbn service.

- the Service Continuity Standard must be amended to ensure obligations to supply a legacy service in the interim do not disrupt work that will allow completion of a successful connection to the consumer’s nbn.
- the period in which an individual service may be subject to this Standard must be clarified to ensure this Standard:
  - does not apply to an individual’s service once a successful connection has been achieved on the nbn;
  - does not apply once mandatory disconnection dates have been reached (and associated in train orders); and
  - does not impact ongoing activity on arrangements to end co-existence.

Clarification in drafting will be crucial, particularly when relying on definitions that identify when a service is operational or that a migration has been unsuccessful, and by which the obligations under the Service Continuity Standard are triggered.

### 4.2 Scope and duration of terms

nbn strongly agrees that the Service Continuity Standard should not continue after rollout completion date and that the instrument should be repealed after this date.

The scope of the Service Continuity Standard should not apply to nbn services once they have been successfully activated (aka migration). If there is a subsequent fault, existing nbn and relevant industry assurance processes in place should apply.

Further the Service Continuity Standard should not apply:

a) after the 18 month migration period ends as extended where applicable by the service continuity regions and in-train orders;

b) (to be consistent with the WBA nbn™ Ethernet Product Module clause 12.5) where nbn becomes aware that all non nbn-services have been removed from a node area on the FTTB Network or FTTN Network (as applicable) and co-existence arrangements can end. This approach should also ensure end of co-existence activities that are implemented following to the end of an 18-month migration window are also not affected;

c) to a new nbn service connection at a premises where no legacy service was previously connected; and

d) to an nbn service that experiences a fault that may arise after that initial connection has successfully been completed).

Where a consumer is unwilling for CSPs and nbn to continue expediting the connection of an nbn service, there is no mechanism in the Standard that acknowledges the required Mandatory Disconnection Date once a legacy service has been re-instated. This gap potentially gives the consumer an ability to indefinitely defer the nbn connection (for example, they decide not to plug in a CSP modem). In order fulfil its own policy objectives nbn must be able to complete service delivery at the layer 2. This then results in a requirement on the CSP to migrate the service. nbn requests the ACMA clarify how this standard would apply in the context of existing mandatory disconnection dates for legacy services that apply under the Telstra Migration Plan and the Definitive Agreements between nbn and Telstra.
## 4.3 Definitions

Again, nbn offers the following comments on the ACMA’s proposed definitions. We note that due to the complexities and huge variety of operational processes that may be impacted by the terms of the Service Continuity Standard, it will be crucial that any ambiguity or incorrect use of terms is corrected.

### Draft definition

<table>
<thead>
<tr>
<th>Draft definition</th>
<th>Nbn’s suggested amendment</th>
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</table>
| **alternative service** means a voice service or broadband service, or both, other than a legacy service, supplied or arranged to be supplied by a carriage service provider to a consumer. | nbn suggests amending this clause to:  
“**alternative service** means a voice service or broadband service, or both, other than a legacy service or an nbn service, supplied or arrangement to be supplied by a carriage service provider to a consumer.”  
In the context used, it would be appropriate to exclude an nbn service as well.  
nbn general supports this definition in that it is likely to provide sufficient flexibility for retail CSPs to offer a range of suitable alternatives that suit their respective business models. It is nbn’s strong view that, particularly for nbn broadband services connected over FTTN/B/C, the offer of an alternative service should be offered to the customer as any first option. |

### consumer means:

(a) an individual who acquires or may acquire a carriage service for the primary purpose of personal or domestic use and not for resale; or

(b) a business or non-profit organisation which acquires or may acquire one or more carriage services which are not for resale and which, at the time it enters into the consumer contract:

i. does not have a genuine and reasonable opportunity to negotiate the terms of the consumer contract; and

ii. has or will have an annual spend with the carriage service provider which is, or is estimated on reasonable grounds by the carriage service provider to be, no greater than $20,000.

A reference to a consumer includes a reference to the consumer’s representative.

We note this definition is from the TCP Code; and therefore will include a certain type of SMB customer as well as residential customers. Compliance with this definition is likely to be felt by CSPs in the first instance.

nbn will respond to initial requests from retail CSPs but may not have visibility of whether the end user fits into any particular category. Therefore we will need to rely on retail CSPs only seeking assistance under the Standard for connections to these customer types only. While we will continue to provide assistance in rectifying difficulties experience for all nbn service connections, further investigation is needed to identify which customer requests fall under the terms of this Standard in order for nbn to comply. If the process specific to the final Standard is abused, nbn may negotiate with the access seeker in question.
<table>
<thead>
<tr>
<th>Draft definition</th>
<th>Nbn’s suggested amendment</th>
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<tbody>
<tr>
<td><strong>legacy service</strong> means:</td>
<td>nbn supports this definition.</td>
</tr>
<tr>
<td>a) a legacy service within the meaning of Part 4 of the Telecommunications Regulations 2001; or</td>
<td></td>
</tr>
<tr>
<td>b) a telecommunications service supplied using a hybrid fibre-coaxial network</td>
<td></td>
</tr>
<tr>
<td><strong>NBN service</strong> means a carriage service supplied using the NBN and includes a NBN broadband service, or a NBN voice service or both.</td>
<td>Potentially no change if underlying definitions below are adequately addressed.</td>
</tr>
<tr>
<td><strong>NBN broadband service</strong> means a broadband carriage service supplied using the NBN, but does not include a NBN voice service.</td>
<td>Amend with the following: “nbn broadband service means a broadband carriage service supplied using an nbn Ethernet product, but does not include an nbn voice service.”</td>
</tr>
<tr>
<td><strong>nbn</strong> proposes a new definition be added:</td>
<td>nbn proposes a new definition be added:</td>
</tr>
<tr>
<td>“nbn™ Ethernet has the meaning given in the wholesale broadband agreement between NBN Co and retail carriage service providers published on NBN Co’s website at <a href="https://www.nbncosales-nbn-services/supply-agreements/wba.html">https://www.nbncosales-nbn-services/supply-agreements/wba.html</a>, as amended from time to time.”</td>
<td></td>
</tr>
</tbody>
</table>
4.4 Part 2 – circumstances where a legacy service must be supplied

4.4.1 Correct use of terminology

The phrase ‘migration of the consumer’s legacy service’ has been used throughout the Service Continuity Standard. nbn notes this terminology was also used in section 7 of the Telecommunications (NBN Consumer Experience Industry Direction 2017) that forms the basis of this Standard. While use of ‘migration’ is commonly used to describe the process by which a consumer’s legacy is replaced with services that are connected over the Network, this phrase is technically incorrect. nbn respectfully suggests that this be corrected throughout. Given the importance of this concept to the directions given in this Standard, this description must be used its correct technical context.

The new nbn service is not the same as the consumer’s legacy service. Therefore, the concept of migrating the legacy service to the nbn is technically incorrect. A consumer’s physical legacy service is not migrated to the nbn. nbn acknowledges that many retail CSPs arrange for their customers to remain on the same contract and consumer plan while changing the underlying access technology that is supplied to the customer. The access method of supplying voice and broadband services to the customer is changed by creating a new connection onto the Network.
In cases where the 

broadband service access network doesn’t use any of the existing physical legacy network components, the consumer’s legacy service will be replaced. In some circumstances, e.g. the fixed line network, it is a requirement for Telstra to disconnect the legacy services under the Telstra Migration Plan and Definitive Agreements between and Telstra. In some circumstances, e.g. where an 

Fixed Wireless or Satellite service is supplied, the legacy copper service may remain.

For FTTN/FTTB and FTTC, a lead-in copper pair connected from either the node, the building MDF or a distribution point unit on the street respectively will be jumpered to the Network.

Any connection of a voice service over the broadband service will also be a new service whether subject to local number portability, or number transfer from the old technology to the new is applied. CSPs may choose to utilise the customer’s existing telephone number if they also choose to activate a VOIP service over the top of the broadband Ethernet service.

It would be more accurate to describe this activity as ‘migration from the consumer’s legacy service to the broadband service’.

The use of ‘operational’ and ‘unsuccessful migration’ throughout the Standard is unclear. With respect to a service that is not "operational", there is no distinction between whether the Standard is intending to refer to:

- a service that has no connectivity at all - i.e. the end user is not getting any service; or
- the service is connected but it is just not performing as per the end user’s agreement with the retail CSP.

It is also unclear in what circumstances has a migration from the consumer’s legacy service to the broadband service is deemed to be "unsuccessful" or "successful" but it is not clear what a "successful" migration is for these purposes, and requires clarification.

The ACMA’s intentions will be important to clarify to the industry so we can understand the extent to which our current processes and systems will be impacted.

8 (1) This section applies in circumstances where, in relation to a consumer’s premises:

a) the area in which the premises is located has been declared ready for service by NBN Co;
b) there is no operational legacy service being supplied to the premises;
c) a carriage service provider has entered into a consumer contract with the consumer for the supply of a NBN service to the premises; and

d) a legacy service is readily able to be supplied to the premises.

suggests subclause (a) be amended to “the fixed line footprint in which the premises is located has been declared ready for service by NBN Co”. The ACMA should be aware that not all premises in a rollout region will be in ’s fixed line footprint (the fixed line footprint is a list of premises, not a geographic area) and therefore premises outside this list should not be in scope under the obligations of this Standard.

suggests subclause (b) be amended to “there was an operational legacy service at the premises prior to any connection of an service being attempted”.

It is ’s understanding that the intention of this Standard is to address circumstances where customers experience a loss of service during the migration from a legacy service to a broadband service. Therefore application of this Section:

- should only apply to connections attempted during the 18 month window after an area has been declared ready for service; and
should not apply if a consumer has requested for a brand new nbn service without migrating from an existing legacy service.

nbn suggests the ACMA clarify what ‘readily able to be supplied’ in subclause 8(1)(d) means in the context of FTTN/FTTB/FTTC where a copper lead-in has already been jumpered. The principle that should be applied to the Standard, and to this clause, is to enable activity that ensures the nbn service is connected as soon as possible. We also believe a legacy service that is ‘readily able to be used’ would not require the installation of new infrastructure, for example, a redundant parallel copper service.

Reconnection should not be required where re-supply of a legacy service would disrupt connection (or fault resolution) of an nbn service. Such an exception is apparently consistent with the relevant Ministerial Direction’s requirement14 that the Standard should deal with the provision of services “in areas where legacy services are readily able to be supplied”. It would seem clear that legacy services are not “readily able to be supplied” in any area where the underlying infrastructure is required to implement the nbn service and that the Standard should therefore not deal with the provision of services in those areas.

The proposed requirement for carriage service providers to re-supply a legacy service in some circumstances under clause 8(1) would appear to be inconsistent with current restrictions in the Definitive Agreements between nbn and Telstra and in the Telstra Migration Plan on Telstra reconnecting premises. This includes the cease sale provisions in clause 17 of the Telstra Migration Plan15 and restrictions on reconnecting copper paths or HFC lines at premises that are passed by the nbn fixed line network and that have been permanently disconnected in clause 19 of the Telstra Migration Plan16.

8(2) The carriage service provider must supply a legacy service to that consumer’s premises where:

a. the migration of the consumer’s legacy service to the NBN has been unsuccessful, and is unlikely to be successful within two working days of the provider becoming aware of the unsuccessful migration; or

b. the migration of the consumer’s legacy service to the NBN has been successful, but a NBN service has not been supplied to that consumer and cannot be supplied to that consumer within two working days of the provider becoming aware that the consumer’s NBN service is not operational,

nbn strongly recommends a) be amended to state:

“the consumer is migrating from their existing active legacy service to a service over the nbn access network, the connection has been unsuccessful and is unlikely to be successful within two working days of the provider becoming aware of the unsuccessful connection;”

nbn is not clear about the precise meaning of subclause b). Is the Standard referring to instances where the nbn Layer 2 access component of a customer’s connection has been successfully completed but Layer 3 components provided by the CSP that are not operational?

14 See s7(1)(b) of the Telecommunications (NBN Consumer Experience Industry Standard) Direction 2017


If that is the case, **nbn** is concerned that the terms under b) may unduly impact **nbn**’s rollout in instances where the **nbn** connection has been successfully completed but the CSP network or consumer equipment is causing the problem. If the **nbn** network is working properly, in the case of an FTTN/FTTB/FTTC service, it would be illogical to disconnect or otherwise deactivate that service and restore a legacy service if the fault lies in the CSP network or customer equipment. Further, it would not be reasonable to install redundant new infrastructure in parallel. Systems and commercial constraints also restrict the connection of legacy services in parallel (as described in section 12).

If **nbn** were required to reverse jumper where the **nbn** service is working but there may be issues at Layer 3 level, delaying the successful connection of the **nbn** service longer is clearly counterproductive to the overall rollout, **nbn**, the consumer and the retail CSP which will need a working **nbn** Layer 2 service in order to fix any Layer 3 issue.

If circumstances under clauses 8(2) (a) or (b) do arise, the most practical solution would appear to be the provision of an interim arrangement. Retail CSPs are in the best position to provide such an interim service.

As a second option, a new legacy service may be supplied by the RSP provided it does not, as stated above, use the same infrastructure being prepared for the **nbn** Ethernet service.

It would be a third, and very much least recommended, option to have to reverse the process.

### 4.4.1 Timeframes

A mandated two day trigger and the time frames suggested to ‘restore’ an existing legacy service are impractical given the complexities of the already in-train broadband connection, voice connection, physical connections in the home and in the network; voice porting, Wi-Fi pairing in the customer premises etc. Two working days also cuts across already established processes embedded between the relevant industry parties. For example, common **nbn** service failures due to:

- No or faulty supplied CSP modem (which for a replacement make include >3 days national dispatch)
- Incorrect porting of telephone service by a retail CSP which may take a minimum restoration time of 3 business days.

**nbn** suggest a more practicable option would be to not be a set timeframe but rather require an assessment of available options i.e. what is the shortest path to resolution; legacy service reconnection, issue rectification or provision of temporary alternate service.

Unless an **nbn** service has been connected and the legacy service disconnected by mistake, it is rare that reversal is the chosen or optimal path. The path of least resistance and by far the quickest outcome for the customer is for the retail CSP to work with **nbn** to resolve any outstanding migration problem as quickly as possible.

Consideration must also be given in the timeframes set out in this Standard where they may be validly impacted by rescheduled appointment requests, missed appointments (particularly where a customer is needed to be present at the premises and isn’t), force majeure incidents, mass service disruptions for voice services, delays due to weather impacts, other remediation activities, network outages, periods where both the CSP and **nbn** are waiting for a consumer to complete connection of their self-install kit.

8(3) Subsection (2) does not apply where:

- **a)** the consumer does not consent to the supply of the legacy service; or
- **b)** the consumer has consented to the supply of an alternative service by the carriage service provider instead of a legacy service.
In order to address some of the issues raised by clause 8(2), nbn strongly recommends adding a new subclause to 8(3):

“c) supply of a legacy service will disrupt completion of a successful connection to the consumer’s nbn service or resolution of a fault raised during the activation of the nbn service.”

The Standard must be drafted in a manner that ensures obligations to supply a legacy service in the interim do not disrupt work that will allow completion of a successful connection to the consumer’s nbn services.

8(4) - For paragraph (1)(d), a legacy service is readily able to be supplied to a consumer’s premises where the infrastructure to supply legacy services is in place (which includes where a legacy copper connection has been jumpered) and an operational legacy service could reasonably be expected to be supplied by the consumer’s carriage service provider, with the reasonable assistance of other carriage service providers or carriers as required.

nbn understands the Service Continuity Standard is here seeking to address instances where the same infrastructure is used (i.e. FTTN, FTTB and FTTC) for the legacy, and nbn service (e.g. which includes where a legacy copper connection has been jumpered) but exclude instances where a mandatory disconnection of the legacy service has already been implemented.

Where Telstra has already completed their managed disconnection process (i.e. after Disconnection Date (DD)), a reversal may be much more difficult to enact, and may be inconsistent with Telstra’s obligations under the Telstra Migration Plan and the Definitive Agreements between nbn and Telstra. nbn suggests the option to revert back to a legacy service only be available within the 18 month migration window.

nbn wishes to ensure that the timing of this proposal will not impact the work nbn is undertaking to manage the end of co-existence. nbn currently has an arrangement in place to reduce transmission interference over the FTTN and FTTB infrastructure currently shared by Telstra ADSL and other ULL-based services through network power back-off. An impact of this measure is to reduce the full potential speeds possible on FTTN technology. nbn is understandably keen to ensure these co-existence arrangements can be removed as soon as it is appropriate to do so in order to achieve full potential for our FTTN and FTTB technologies for all users. If power has been turned up at a node, then nbn shouldn’t be required to reinstate copper and turn down power that is likely to impact all users on that node if a particular connection takes longer to rectify than the timeframes allowed in the Service Continuity Standard.

8(5) For paragraph (3)(b), a consumer must have expressly consented to the provision of an alternative service and not as part of a standard form of agreement formulated by a carriage service provider for the purposes of section 479 of the Act.

nbn notes this clause covers arrangements made between the retail CSP and their customer and therefore does not comment on this clause.

8(6) For the purposes of paragraph (1)(b), a consumer’s legacy service which is no longer operational includes a service that has been disconnected by mistake. It does not include a service that has been disconnected as a result of credit management action taken by a carriage service provider in accordance with any applicable provisions of an industry code registered by the ACMA under section 117 of the Act.

Clarification is needed on what situations the ACMA refers to where a service is disconnected by mistake.
nbn would prefer this clause reflect the processes that have already been agreed within the CA G659:2017 -NBN FTTB/N, FTTC and Parallel Migration Processes Guideline. G659 provides agreed processes between industry players in circumstances where disconnection by mistake but deals with it in specific terms (e.g. a CSP does not obtain correct authorisation, there is an error in the nbn or Telstra process). If it is the intention of the ACMA to allow this industry document to be implemented without interference from this Standard, nbn would support this clause. nbn’s primary concern will continue be on whether the reinstatement of the service is feasible, and how it impacts the ability to expedite a legitimate connection request and minimise unnecessary impact to technical and delivery partner resources.

Given this Standard should reflect activity that is required as a result of an initial ‘migration’, it is unclear why disconnection as a result of credit management action would be relevant in this context.

### 4.5 Part 3 – processes and timeframes for the connection and supply of legacy services and alternative services

#### 4.5.1 Section 9 – Requirement to advise a consumer and keep records

Given section 9 addresses the requirement for CSPs to advise a consumer of possible alternative service and reinstatement of legacy services; and keep records of interactions with their customer, nbn will not comment on the detail of this clause.

#### 4.5.2 Section 10 - Timeframes for the reconnection of legacy services

As currently drafted, section 10(1) of the Service Continuity Standard states that:

10(1) Where the requirement to supply a legacy service under subsection 8(2) applies, the carriage service provider must reconnect the consumer’s premises to a legacy service:

a) where the premises are located in an urban area - within 5 working days;

b) where the premises are located in a major rural area - within 10 working days; or

c) where the premises are located in a minor rural or remote area - within 15 working days,

of the carriage service provider obtaining the consumer’s consent to the reconnection

From an nbn perspective, the activation of an nbn broadband service does not actually require the legacy service to be terminated. However in the case of FTTN, FTTB and FTTC, the legacy service will no longer be available to the end user post activation, as the copper path is physically altered as part of the Ethernet broadband service activation. When a service activation is completed, nbn generate an entry in a “Daily Migration Feed” (DMF) for the Product Instance that has been connected onto the nbn™ network. Telstra Wholesale receive the DMF and use the information within it to cancel their retail or wholesale service for that location.

Therefore, in the event that a legacy service needs to be reinstated within an FTTN/FTTB area, three actions need to be undertaken:

1. reactivate the legacy service;

2. nbn arrange a copper re-jumper at the pillar; and

3. Telstra needs to request and be granted a licence to provide the legacy service over nbn-owned assets.

Where the service is delivered via HFC, no jumpering is required, the retail CSP simply needs to re-activate the legacy service.
The FTTC process is slightly different again, in that the end user needs to unplug the NCD, which automatically physically switches the copper path back in the Distribution Point Unit (DPU), and Telstra needs to re-activate the legacy service and obtain a licence to use the nbn-owned copper to provide that legacy service.

Again, the timeframes to roll back through all the permutations of the process from end to end is disruptive to all parties, will require the entire nbn connection process to be repeated again. nbn will adhere to its contacted arrangements and timeframes under the WBA to connect or disconnect the Layer 2 Ethernet service where relevant.

In the instances where there is an underlying fault that has prevented a successful connection, nbn will also work to the timeframes it has committed to under the WBA. Noting the timeframes described generally exceed the timeframes to resolve most common issues as described earlier.

nbn suggests an option may be to align 8 (2)(b) with the minimum lead times for service reconnection outlined here in section 10.

Under the current reversal process nbn assumes industry have followed due process, established consumer willingness and legacy provider readiness to reinstate a service and send out an technician as soon as feasible to restore the physical connection path. This assumes Telstra and the legacy provider then resupply a service which is beyond nbn’s ability to monitor or control.

nbn also suggests the ACMA consider the myriad complexities that will need to be dealt with by retail CSPs when a consumer’s services are either ported or transferred to a new CSP at the same time as connecting to the nbn.

As currently drafted, section 10(2) of the Service Continuity Standard states that:

10 (2) The requirement to reconnect a legacy service set out in subsection (1) does not apply where an operational NBN service is supplied to the consumer’s premises prior to the expiration of the timeframe referred to in paragraphs (1)(a), (b) and (c), whichever is applicable.

nbn supports this provision.

4.5.3 Section 11 – Timeframes for the supply of an alternative service

nbn will not comment on the detail of this section as this is a matter between the consumer and the retail CSP. However nbn reiterates its preference that this option be used as the preferred option.

4.5.4 Section 12– Timeframes for the continued supply of a legacy service or an alternative service

As currently drafted, section 12 of the Service Continuity Standard states that:

12 Where a carriage service provider supplies a legacy service or an alternative service under Parts 2 and 3 it must continue to supply that service to the consumer’s premises until the earlier of:

(a) an operational NBN service is supplied to that consumer; or
(b) the relevant consumer contract with the carriage service provider expires; or
(c) the relevant consumer contract with the carriage service provider has otherwise been validly terminated.

In situations where the current drafting of clauses 8(2), 12(a) and 15(c) remain neither nbn nor any CSP will be able to comply with subclause a) where a consumer’s nbn service is to be connected to the access network via one of nbn’s FTTN/FTTB/FTTC Ethernet products.
This clause requires supply of a legacy service to continue until an operational nbn service is supplied to that consumer. This is physically impossible in instances where the underlying copper lead-in pair is ‘jumpered’. The process by which FTTN/FTTB/FTTC products are connected must disconnect the consumer’s legacy service and a temporary outage will always be required.

In addition, current nbn/Telstra systems are designed for connection of “Legacy OR nbn” not both connected together. Allowing parallel connection of legacy services currently requires complex rollback of nbn serviceability and the cancellation of any in flight orders, hence to achieve clause 12 a) would require a complete restart of the entire connections process that would be onerous both to nbn and CSP’s. To efficiently allow for concurrent activities would require changes to the WBA, Migration Plan and complex commercial discussions between nbn and Telstra.

nbn strongly recommends the ACMA amend this clause to reflect current connection processes currently in place for both CSPs and nbn.

4.5.5  Section 13 – circumstances where a CSP must not charge a customer

nbn will not comment on the detail of this clause as this is a matter between the consumer and the retail CSP.

4.5.6  Section 14- requirements regarding a consumer’s telephone number

nbn is not involved with the supply of telephone numbers and therefore will not comment on the detail of this clause as this is a matter between the consumer and the retail CSP.

4.6  Part 4 – Reasonable assistance

4.6.1  Section 15 – Carriage service providers and carriers must provide reasonable assistance

As currently drafted, section 15 of the Service Continuity Standard states that:

1)  Where:

   a) a carriage service provider (the first carriage service provider) supplies a legacy service to a consumer under Parts 2 and 3; and

   b) a person listed in paragraph 4(a), that is not the first carriage service provider, is involved (directly or indirectly) in the supply of that legacy service,

   c) the person referred to in paragraph (b) must provide reasonable assistance to the first carriage service provider at the request of the first carriage service provider, for the purpose of the first carriage service provider complying with the requirements of Parts 2 and 3.

2)  Where paragraph 8(2)(a) or 8(2)(b) applies, or where paragraph 8(3)(b) and section 11 apply, NBN Co, or if requested, another person listed in paragraph 4(a), must take reasonable steps to assist the first carriage service provider to expedite the supply of an operational NBN service to the consumer.

nbn supports these clauses and the directions provided to it. We will continue to work with our access seeker customers to expedite supply of an operational nbn service to the consumer on a case by case basis.
nbn is willing and continues to provide assistance in expediting connections and seeking to resolve difficulties experienced by consumers through the established connections processes where and whenever it is possible for nbn to do so.

4.6.2 Program FoCX initiatives

nbn also continues to identify measures that improve customer experience including initiatives to develop nbn’s bilateral partnerships with both retail CSPs and service delivery partners.

nbn has developed its Future of Customer Experience (FoCX) Program to drive customer experience improvement related initiatives. This is to ensure that issues, such as those identified in the ACMA’s consumer survey snapshot and have formed the rationale for the ACMA’s consultation paper, are managed effectively between nbn, CSPs, and delivery partners. Program FoCX focuses on performance improvements during the four stages of end users’ interaction with nbn:

- ‘Aware’: increasing consumer awareness or understanding of information needed to connect to the nbn network and who to contact;
- ‘Connect’: improving consumers’ experience with getting nbn broadband services connected;
- ‘Use’: Improving consumer experience with regard to expectations on speed and reliability of the nbn network; and
- ‘Fix’: Improving consumer experience where an issue has been reported about a service and parties are not satisfied with the resolution.

These stages include the following initiatives:

- **Aware**: Measures that relate to the user’s awareness of information needed to connect to the nbn network and who to contact.
- **Connect**: Measures that relate to the user’s experience while getting connected, including difficulty placing their order and support for understanding speeds.
- **Use**: Measures that relate to the user’s experience regarding the use of their service, including speed and reliability.
- **Fix**: Measures that relate to the user’s experience where an issue has been reported and the resolution.

Over time, as we have historically shown to date, we will continue working to improve our operational targets etc. on connection processes, while we continue to rollout our network at pace.

4.6.3 Section 16 – nomination of contacts

As currently drafted, section 16 of the Service Continuity Standard states that:
A carriage service provider mentioned in subparagraphs 4(a)(i) and (ii) and a carrier mentioned in subparagraphs 4(a)(iii) and (iv) must:

a) nominate one or more personnel as a contact person or persons responsible for the coordination of activities regarding the provision of reasonable assistance under this Part;
b) notify relevant carriage service providers and, where applicable, carriers, of an email address and mobile phone number where they can contact personnel nominated as a contact person under paragraph (a), or make enquiries about, or request, reasonable assistance under this Part;
c) ensure that the inbox for the email address identified in paragraph (b) is monitored each working day and that the mobile telephone number is contactable during working hours;
d) ensure that all enquiries and requests for reasonable assistance received by the nominated contact person are responded to as soon as practicable; and
e) if an industry body that is representative of the telecommunications industry has established a register for the purposes of this Part, notify that industry body:
i. of the matters referred to in paragraphs (a) and (b) within two working days of making a nomination under paragraph (a); and
ii. of any changes to the information notified under subparagraph (i) within two working days of the information being changed

nbn suggests this clause is overly prescriptive. We do of course provide assistance to our access seekers with any issues arising through the nbn connection processes today.

nbn already has well established contact methods with its access seekers and we strongly recommend that these be allowed to continue be used. nbn has a wide range of teams that liaise at different escalation levels and at different points of the connection process with access seeker operational staff. It also manages orders and provisioning requests via its Service Portal and B2B interfaces and would prefer that the Standard be consistent with the operational contact methods and arrangements that are already in place under the WBA, rather than mandate new and unrelated contact requirements.

nbn would also prefer the Standard allow for requests for assistance raised by the CSPs it has a contractual relationship with (i.e. its access seekers). In this way, nbn can be confident that it is communicating with the correct and authorised entity and avoid the risk of providing detail about another retail CSP’s contracted service. If an enquiry is as a result from a downstream retail CSP, the transactions details would most appropriately be passed through established channels with our contracted access seekers.

nbn supports reference to 16 e), in the form of further support for the current implementation outlined under C659:2017 in the form of the Contact Matrix. This matrix should be maintained and controlled by Communications Alliance with specific contacts nominated for the various industry touch points.

4.6.4 Section 17 - Notification that migration to NBN has been unsuccessful

As currently drafted, section 17 of the Service Continuity Standard states that:

17 Where an area has been declared ready for service by NBN Co, but the migration of a consumer’s legacy service has been unsuccessful, NBN Co must take all reasonable steps to notify the consumer’s carriage service provider that migration has not occurred, within two working hours of becoming aware of that fact.

nbn’s responsibility should be clarified to only pertain to the layer 2 Ethernet service. Consistent with the concerns nbn has raised under clause 8(2), it will not be possible to provide notification within two working hours
in all instances. Timeframes will differ depending on the systems used for the particular access type. For example, in the case of Satellite and Fixed Wireless connections orders, advice of completion or the need to extend a connection process or to raise a fault to rectify issues experienced during a technician visit often in remote areas, notifications to the access seeker in 2 hours is not achievable.

Nor does this timeframe cater for faults that have been raised between the retail CSP and nbn to rectify connection issues before an order is completed. Faults that nbn is responsible for will be rectified according the terms negotiated under the WBA.

nbn strongly suggests clarification between the concepts of an ‘unsuccessful migration’ and where ‘migration has not occurred’. There may be valid reasons where nbn has not completed a connection order on the date requested which may not be an “unsuccessful migration”.

In order to comply with this clause, nbn will need to consider carefully what circumstances an ‘unsuccessful migration’ is referring to, including at what point this assessment must be made in the order completion process. If during the course of progressing an order an issue is encountered that needs to be addressed either by nbn or the retail CSP, nbn will place the order in a ‘Held’ status, the legacy service should still remain intact and once the issue has been rectified the order will be re-attempted. nbn currently notifies our access seekers when an nbn activation is complete. There would appear to be no utility in a notice before that point in time informing the access seeker that nbn hasn’t yet activated the service.

4.7 Implementation and Review

nbn fully appreciates the aim of the standard to ensure that consumers are not left without a working voice and/or internet service for an unreasonable period of time when migrating to the nbn™ network.

Indeed, nbn and its industry partners have established detailed business processes that interact to support the ordering, activation and delivery of these services with a view to optimising customer experience.

These processes have been refined over the almost ten years that nbn has been established and are the subject of continuous improvement as we implement the findings of regular Customer Experience surveys.

Today there are relevant processes that support interaction between CSPs and nbn to address migration issues and for reversals / reconnections where required (although this is in most cases a last resort).

nbn notes that the processes and interactions across industry that exist today do not exactly match the expectations of the standard and, in practical terms, significant and complex changes across the industry are likely required to align will take time. Our strong preference is to retain those already established processes, identifying opportunities to continuing refining them as issues arise. Changing or creating new process can often take 6-12 months even where those changes are part of an agreed roadmap and supported by approved funding. This can take longer when multiple industry players are involved and even longer where funding needs to be found across all parties.

Based on the above in our opinion, the timeframes set down for implementation of the Service Continuity Standard may lead to significant non-compliance. We therefore recommend a phase-in period after the commencement date, which takes into account the development times required to implement required industry changes in a considered and appropriately robust manner.

It would also be highly prudent to conduct a review of the Standard within 6 months of being made to identify and resolve any unintended consequences that may discovered during the implementation phase.
nbn looks forward to engaging with the ACMA on these Standards to develop practical and workable solutions that meet the objectives the ACMA has been set; and also ensures disruption to the existing industry frameworks upon which we operate are kept to a minimum.