

Investigation Report

Aussie Broadband Pty Ltd's compliance with clause 19 of Schedule 2 to the *Telecommunications Act 1997*

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|---------------------------|---|
| File No. | ACMA2017/869-21 |
| Carriage service provider | Aussie Broadband Pty Ltd |
| ACN | 132 090 192 |
| Type of services | Standard Telephone Service |
| Scope of Investigation | Compliance with clause 19 of Schedule 2 to the <i>Telecommunications Act 1997</i> |

Findings

1. The Australian Communications and Media Authority (**the ACMA**) finds that Aussie Broadband Pty Ltd (**Aussie Broadband**) has contravened:
 - paragraph 19(2)(a) of Schedule 2 to the *Telecommunications Act 1997* (**the Act**) on 10 occasions on 1 September 2018 as Aussie Broadband did not inform 10 prospective residential customers, who made an inquiry about the supply of a standard telephone service, that it does not offer priority assistance in connection with the service; and
 - paragraph 19(2)(b) of Schedule 2 to the Act on 10 occasions on 1 September 2018 as Aussie Broadband did not inform 10 prospective residential customers, who made an inquiry about the supply of a standard telephone service, of the names of one or more carriage service providers (**CSPs**) from which the prospective residential customer could obtain priority assistance in connection with a standard telephone service.
2. As a consequence of those contraventions, the ACMA also finds that Aussie Broadband contravened subsection 101(1) of the Act on 10 occasions as it did not comply with the service provider rules that apply to it, namely the rules referred to in section 98 of the Act.
3. A table setting out the ACMA's findings is at Attachment A.

Background

4. Under section 510 of the Act, the ACMA has jurisdiction to investigate a potential contravention of the Act.
5. On 26 September 2018, the ACMA commenced an investigation under subsection 510(1) of the Act to determine whether Aussie Broadband was complying with the service provider rules in clause 19 of Schedule 2 to the Act, which requires CSPs that do not offer priority assistance to inform prospective residential customers that they do not offer this enhanced service, and to inform the prospective customer of at least one CSP from whom the customer can obtain priority assistance.
6. On the same day, the ACMA gave Aussie Broadband a notice under section 521 of the Act (**the Notice**) requiring the provision of information and documents in relation to a sample of 10 inquiries by prospective residential customers for a standard telephone service, in order to assess compliance with clause 19 of Schedule 2 to the Act.

7. On 5 October 2018 Aussie Broadband responded to the Notice.
8. On 7 December 2018, the ACMA sent its preliminary findings report to Aussie Broadband and invited it to respond. On 20 December 2018, Aussie Broadband provided its submission in response.

Relevant facts

9. Aussie Broadband is a CSP within the meaning of the Act¹. Aussie Broadband supplies telephone and internet services to residential and small business customers.
10. Priority assistance means the provision of the highest level of service practicably available at the time, supplied to priority customers in relation to new connections, fault repairs and service reliability of the standard telephone service at the priority customer's place of residence.² Priority customers are customers who require the telephone to access emergency medical treatment or advice to reduce the possibility of death from a life-threatening illness.³
11. Telstra Corporation Limited is the only CSP required to provide priority assistance under the Act. Other CSPs may offer priority assistance services but are not obliged by regulation to do so. CSPs (other than Telstra) that offer priority assistance are required to comply with the industry code *ACIF: C609:2007 Priority Assistance for Life Threatening Medical Conditions (the Priority Assistance Code)*.
12. Aussie Broadband does not offer priority assistance.

Findings and reasons

Compliance with the Act

13. Subsection 101(1) of the Act requires that service providers (a term which includes CSPs) comply with the service provider rules that apply to them. Subsection 98(1) of the Act provides that the service provider rules include the rules set out in Schedule 2 to the Act. Clause 19 of Schedule 2 to the Act provides that if a CSP receives an inquiry from a prospective residential customer about the supply of a standard telephone service, and the CSP does not offer priority assistance, the CSP must:
 - (a) inform the prospective residential customer that the CSP does not offer priority assistance in connection with the service; and
 - (b) inform the prospective residential customer of the names of one or more CSPs from whom the prospective residential customer can obtain priority assistance in connection with a standard telephone service.
14. In making its findings, the ACMA considered the evidence gathered during the course of the investigation as summarised in Attachment A. The ACMA also considered Aussie Broadband's submission dated 20 December 2018, in which Aussie Broadband made no arguments against the findings set out below.

¹ See section 87 of the Act.

² Subclause 19(3) of Schedule 2 to the Act and clause 3.2 of the Priority Assistance Code.

³ Clause 3.2 of the Priority Assistance Code.

Breach findings

15. On 1 September 2018 as specified in column B of Attachment A, a prospective residential customer, in a telephone call with a representative of Aussie Broadband, made an inquiry about the supply of a standard telephone service.
16. In all 10 instances, Aussie Broadband's response described in column F of Attachment A did not meet the requirements of paragraph 19(2)(a) of Schedule 2 to the Act as Aussie Broadband did not inform the prospective residential customer that it does not offer priority assistance in connection with the service.
17. In all 10 instances, Aussie Broadband's response described in column G of Attachment A did not meet the requirements of paragraph 19(2)(b) of Schedule 2 to the Act as Aussie Broadband did not inform the prospective residential customer of the names of one or more CSPs from whom the prospective residential customer can obtain priority assistance in connection with a standard telephone service.
18. Accordingly, the ACMA is satisfied that Aussie Broadband contravened clause 19 of Schedule 2 to the Act.

Findings - ACMA Investigation into Aussie Broadband's compliance with clause 19 of Schedule 2 to the *Telecommunications Act 1997*

Attachment A

| A Provider | B Date contacted | C Plan | D Test 1. Did the carriage service provider (CSP) receive an inquiry from a prospective residential customer about the supply of a standard telephone service? (paragraph 19(1)(a) Schedule 2 to the <i>Telecommunications Act 1997</i>) | E Test 2. Does the provider offer Priority Assistance? (paragraph 19(1)(b) Schedule 2 to the <i>Telecommunications Act 1997</i>) | F Test 3. Did the agent inform the prospective customer that the CSP does not offer Priority Assistance in connection with the service? (paragraph 19(2)(a) Schedule 2 to the <i>Telecommunications Act 1997</i>) | G Test 4. Did the CSP inform the prospective customer of the names of one or more CSPs who provide Priority Assistance? (paragraph 19(2)(b) Schedule 2 to the <i>Telecommunications Act 1997</i>) | H Findings | I Comment |
|-------------------------------|---------------------|--------------------|--|--|---|---|---|--|
| Aussie Broadband (customer 1) | 1/09/2018 | NBN and Home Phone | Yes | No | No. Aussie Broadband did not inform the prospective customer that it does not offer Priority Assistance in connection with the service. | No. Aussie Broadband did not inform the prospective customer of the names of one or more CSPs who provide Priority Assistance. | Breach of paragraph 19(2)(a) of Schedule 2 to the <i>Telecommunications Act 1997</i> and breach of paragraph 19(2)(b) of Schedule 2 to the <i>Telecommunications Act 1997</i> | Aussie Broadband asked the prospective residential customer if she had a back to base alarms, medical alert system or a fax machine. The prospective customer confirmed she did not. Aussie Broadband did not advise the prospective customer, at the time the prospective customer inquired about the service, that it did not offer priority assistance or inform the prospective customer of the names of one or more CSP's who provide priority assistance. The terms and conditions read to the prospective customer included information about billing, modems and advised that important terms would be sent via email. The ACMA notes that Aussie Broadband subsequently provided the customer with an email confirming the order. In that email Aussie Broadband advised that it does not offer 'priority restoration assistance to phone line customers with diagnosed life-threatening conditions'. Aussie Broadband also advised the customer to contact Aussie Broadband immediately on 1300 880 905 to cancel their application if the customer wanted priority restoration assistance. The ACMA notes that Aussie Broadband did not advise the customer in that email of the names of one or more CSPs who provide priority assistance. |
| Aussie Broadband (customer 2) | 1/09/2018 | NBN and Home Phone | Yes | No | No. Aussie Broadband did not inform the prospective customer that it does not offer Priority Assistance in connection with the service. | No. Aussie Broadband did not inform the prospective customer of the names of one or more CSPs who provide Priority Assistance. | Breach of paragraph 19(2)(a) of Schedule 2 to the <i>Telecommunications Act 1997</i> and breach of paragraph 19(2)(b) of Schedule 2 to the <i>Telecommunications Act 1997</i> | Aussie Broadband asked the prospective customer if there were any back to base alarms or medical alert systems. The prospective customer confirmed there was not. Aussie Broadband did not advise the prospective customer, at the time the prospective customer inquired about the service, that the provider did not offer priority assistance or inform the prospective customer of the names of one or more CSP's who provide priority assistance. The terms and conditions read to the prospective customer included information about billing, modems and advised that important terms would be sent via email. The ACMA notes that Aussie Broadband subsequently provided the customer with an email confirming the order. In that email Aussie Broadband advised that it does not offer 'priority restoration assistance to phone line customers with diagnosed life-threatening conditions'. Aussie Broadband also advised the customer to contact Aussie Broadband immediately on 1300 880 905 to cancel their application if the customer wanted priority restoration assistance. Aussie Broadband did not advise the customer in that email of the names of one or more CSPs who provide priority assistance. |

Findings - ACMA Investigation into Aussie Broadband's compliance with clause 19 of Schedule 2 to the *Telecommunications Act 1997*

Attachment A

| A | B | C | D | E | F | G | H | I |
|-------------------------------|----------------|--------------------|---|---|--|--|---|---|
| Provider | Date contacted | Plan | Test 1. Did the carriage service provider (CSP) receive an inquiry from a prospective residential customer about the supply of a standard telephone service? (paragraph 19(1)(a) Schedule 2 to the <i>Telecommunications Act 1997</i>) | Test 2. Does the provider offer Priority Assistance? (paragraph 19(1)(b) Schedule 2 to the <i>Telecommunications Act 1997</i>) | Test 3. Did the agent inform the prospective customer that the CSP does not offer Priority Assistance in connection with the service? (paragraph 19(2)(a) Schedule 2 to the <i>Telecommunications Act 1997</i>) | Test 4. Did the CSP inform the prospective customer of the names of one or more CSPs who provide Priority Assistance? (paragraph 19(2)(b) Schedule 2 to the <i>Telecommunications Act 1997</i>) | Findings | Comment |
| Aussie Broadband (Customer 3) | 1/09/2018 | NBN and Home Phone | Yes | No | No. Aussie Broadband did not inform the prospective customer that it does not offer Priority Assistance in connection with the service. | No. Aussie Broadband did not inform the prospective customer of the names of one or more CSPs who provide Priority Assistance. | Breach of paragraph 19(2)(a) of Schedule 2 to the <i>Telecommunications Act 1997</i> and breach of paragraph 19(2)(b) of Schedule 2 to the <i>Telecommunications Act 1997</i> | The prospective customer inquired about the Seniors VoIP plans. Aussie Broadband did not advise the prospective customer, at the time the prospective customer inquired about the service that the provider did not offer priority assistance or inform the prospective customer of the names of one or more CSP's who provide priority assistance. The ACMA notes that Aussie Broadband subsequently provided the customer with an email confirming the order. In that email Aussie Broadband advised that it does not offer 'priority restoration assistance to phone line customers with diagnosed life-threatening conditions'. Aussie Broadband also advised the customer to contact Aussie Broadband immediately on 1300 880 905 to cancel their application if the customer wanted priority restoration assistance. Aussie Broadband did not advise the customer in that email of the names of one or more CSPs who provide priority assistance. |
| Aussie Broadband (Customer 4) | 1/09/2018 | NBN and Home Phone | Yes | No | No. Aussie Broadband did not inform the prospective customer that it does not offer Priority Assistance in connection with the service. | No. Aussie Broadband did not inform the prospective customer of the names of one or more CSPs who provide Priority Assistance. | Breach of paragraph 19(2)(a) of Schedule 2 to the <i>Telecommunications Act 1997</i> and breach of paragraph 19(2)(b) of Schedule 2 to the <i>Telecommunications Act 1997</i> | The prospective customer advised that he was seeking a broadband bundle plan. Aussie Broadband asked the prospective customer if there were any back to base alarms or medical alert systems. The prospective customer confirmed there was not. Aussie Broadband did not advise the prospective customer, at the time the prospective customer inquired about the service, that it did not offer priority assistance or inform the prospective customer of the names of one or more CSPs who provide priority assistance. The terms and conditions read to the prospective customer included information about billing, modems and advised that important terms would be sent via email. The ACMA notes that Aussie Broadband subsequently provided the customer with an email confirming the order. In that email Aussie Broadband advised that it does not offer 'priority restoration assistance to phone line customers with diagnosed life-threatening conditions'. Aussie Broadband also advised the customer to contact Aussie Broadband immediately on 1300 880 905 to cancel their application if the customer wanted priority restoration assistance. Aussie Broadband did not advise the customer in that email of the names of one or more CSP's providers who provide priority assistance. |

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Attachment A

| A Provider | B Date contacted | C Plan | D Test 1. Did the carriage service provider (CSP) receive an inquiry from a prospective residential customer about the supply of a standard telephone service? (paragraph 19(1)(a) Schedule 2 to the <i>Telecommunications Act 1997</i>) | E Test 2. Does the provider offer Priority Assistance? (paragraph 19(1)(b) Schedule 2 to the <i>Telecommunications Act 1997</i>) | F Test 3. Did the agent inform the prospective customer that the CSP does not offer Priority Assistance in connection with the service? (paragraph 19(2)(a) Schedule 2 to the <i>Telecommunications Act 1997</i>) | G Test 4. Did the CSP inform the prospective customer of the names of one or more CSPs who provide Priority Assistance? (paragraph 19(2)(b) Schedule 2 to the <i>Telecommunications Act 1997</i>) | H Findings | I Comment |
|-------------------------------|---------------------|--------------------|--|--|---|---|---|---|
| Aussie Broadband (Customer 5) | 1/09/2018 | NBN and Home Phone | Yes | No | No. Aussie Broadband did not inform the prospective customer that it does not offer Priority Assistance in connection with the service. | No. Aussie Broadband did not inform the prospective customer of the names of one or more CSPs who provide Priority Assistance. | Breach of paragraph 19(2)(a) of Schedule 2 to the <i>Telecommunications Act 1997</i> and breach of paragraph 19(2)(b) of Schedule 2 to the <i>Telecommunications Act 1997</i> | The prospective customer identified himself as a senior and inquired about seniors plans. The prospective customer agreed to sign up for the service. Aussie Broadband did not advise the prospective customer, at the time the prospective customer inquired about the service, that it did not offer priority assistance or inform the prospective customer about a CSP who provides priority assistance. Aussie Broadband advised that important terms would be sent via email. The ACMA notes that Aussie Broadband subsequently provided the customer with an email confirming the order. In that email Aussie Broadband advised that it does not offer 'priority restoration assistance to phone line customers with diagnosed life-threatening conditions'. Aussie Broadband also advised the customer to contact Aussie Broadband immediately on 1300 880 905 to cancel their application if the customer wanted priority restoration assistance. Aussie Broadband did not advise the customer in that email of the names of one or more CSP's who provide priority assistance. |
| Aussie Broadband (Customer 6) | 1/09/2018 | NBN and Home Phone | Yes | No | No. Aussie Broadband did not inform the prospective customer that it does not offer Priority Assistance in connection with the service. | No. Aussie Broadband did not inform the prospective customer of the names of one or more CSPs who provide Priority Assistance. | Breach of paragraph 19(2)(a) of Schedule 2 to the <i>Telecommunications Act 1997</i> and breach of paragraph 19(2)(b) of Schedule 2 to the <i>Telecommunications Act 1997</i> | The prospective customer inquired about a broadband data pack with a home phone. The prospective customer agreed to take up the service. Aussie Broadband did not advise the prospective customer, at the time the prospective customer inquired about the service, that it did not offer priority assistance or inform the prospective customer about a CSP who provides priority assistance. The ACMA notes that Aussie Broadband subsequently provided the customer with an email confirming the order. In that email Aussie Broadband advised that it does not offer 'priority restoration assistance to phone line customers with diagnosed life-threatening conditions'. Aussie Broadband also advised the customer to contact Aussie Broadband immediately on 1300 880 905 to cancel their application if the customer wanted priority restoration assistance. Aussie Broadband did not advise the customer in that email of the names of one or more CSPs who provide priority assistance. |

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| Provider | Date contacted | Plan | Test 1. Did the carriage service provider (CSP) receive an inquiry from a prospective residential customer about the supply of a standard telephone service? (paragraph 19(1)(a) Schedule 2 to the <i>Telecommunications Act 1997</i>) | Test 2. Does the provider offer Priority Assistance? (paragraph 19(1)(b) Schedule 2 to the <i>Telecommunications Act 1997</i>) | Test 3. Did the agent inform the prospective customer that the CSP does not offer Priority Assistance in connection with the service? (paragraph 19(2)(a) Schedule 2 to the <i>Telecommunications Act 1997</i>) | Test 4. Did the CSP inform the prospective customer of the names of one or more CSPs who provide Priority Assistance? (paragraph 19(2)(b) Schedule 2 to the <i>Telecommunications Act 1997</i>) | Findings | Comment |
| Aussie Broadband (Customer 7) | 1/09/2018 | NBN and Home Phone | Yes | No | No. Aussie Broadband did not inform the prospective customer that it does not offer Priority Assistance in connection with the service. | No. Aussie Broadband did not inform the prospective customer of the names of one or more CSPs who provide Priority Assistance. | Breach of paragraph 19(2)(a) of Schedule 2 to the <i>Telecommunications Act 1997</i> and breach of paragraph 19(2)(b) of Schedule 2 to the <i>Telecommunications Act 1997</i> | The prospective customer was seeking to sign up for an NBN service with a home phone. Aussie Broadband did not advise the prospective customer, at the time the prospective customer inquired about the service, that it did not offer priority assistance or inform the prospective customer about a CSP who provides priority assistance. The ACMA notes that Aussie Broadband subsequently provided the customer with an email confirming the order. In that email Aussie Broadband advised that it does not offer 'priority restoration assistance to phone line customers with diagnosed life-threatening conditions'. Aussie Broadband also advised the customer to contact Aussie Broadband immediately on 1300 880 905 to cancel their application if the customer wanted priority restoration assistance. Aussie Broadband did not advise the customer in that email of the names of one or more CSPs who provide priority assistance. |
| Aussie Broadband (Customer 8) | 1/09/2018 | NBN and Home Phone | Yes | No | No. Aussie Broadband did not inform the prospective customer that it does not offer Priority Assistance in connection with the service. | No. Aussie Broadband did not inform the prospective customer of the names of one or more CSPs who provide Priority Assistance. | Breach of paragraph 19(2)(a) of Schedule 2 to the <i>Telecommunications Act 1997</i> and Breach of paragraph 19(2)(b) of Schedule 2 to the <i>Telecommunications Act 1997</i> | The prospective customer advised the agent that he was signing up for an internet and home phone connection for his mother. The prospective customer was placed on the phone on loudspeaker to hear the terms and conditions. Aussie Broadband did not advise the prospective customer, at the time the prospective customer inquired about the service, that it did not offer priority assistance or inform the prospective customer about a CSP who provides priority assistance. The ACMA notes that Aussie Broadband subsequently provided the customer with an email confirming the order. In that email Aussie Broadband advised that it does not offer 'priority restoration assistance to phone line customers with diagnosed life-threatening conditions'. Aussie Broadband also advised the customer to contact Aussie Broadband immediately on 1300 880 905 to cancel their application if the customer wanted priority restoration assistance. Aussie Broadband did not advise the customer in that email of the names of one or more CSPs who provide priority assistance. |

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|--------------------------------|---------------------|--------------------|--|--|---|---|---|---|
| Aussie Broadband (Customer 9) | 1/09/2018 | NBN and Home Phone | Yes | No | No. Aussie Broadband did not inform the prospective customer that it does not offer Priority Assistance in connection with the service. | No. Aussie Broadband did not inform the prospective customer of the names of one or more CSPs who provide Priority Assistance. | Breach of paragraph 19(2)(a) of Schedule 2 to the <i>Telecommunications Act 1997</i> and breach of paragraph 19(2)(b) of Schedule 2 to the <i>Telecommunications Act 1997</i> | The prospective customer advised Aussie Broadband that he wanted to sign up for an internet and phone connection. Aussie Broadband did not advise the prospective customer, at the time the prospective customer inquired about the service, that it did not offer priority assistance or inform the prospective customer about a CSP who provides priority assistance. The agent read the terms and conditions and stated that additional information and important terms and conditions would be sent via email. The ACMA notes that Aussie Broadband subsequently provided the customer with an email confirming the order. In that email Aussie Broadband advised that it does not offer 'priority restoration assistance to phone line customers with diagnosed life-threatening conditions'. Aussie Broadband also advised the customer to contact Aussie Broadband immediately on 1300 880 905 to cancel their application if the customer wanted priority restoration assistance. Aussie Broadband did not advise the customer in that email of the names of one or more CSPs who provide priority assistance. |
| Aussie Broadband (Customer 10) | 1/09/2018 | NBN and Home Phone | Yes | No | No. Aussie Broadband did not inform the prospective customer that it does not offer Priority Assistance in connection with the service. | No. Aussie Broadband did not inform the prospective customer of the names of one or more CSPs who provide Priority Assistance. | Breach of paragraph 19(2)(a) of Schedule 2 to the <i>Telecommunications Act 1997</i> and breach of paragraph 19(2)(b) of Schedule 2 to the <i>Telecommunications Act 1997</i> | The prospective customer inquired about VoIP phone plans. The agent read the terms and conditions. Aussie Broadband did not advise the prospective customer, at the time the prospective customer inquired about the service, that the provider did not offer priority assistance or inform the prospective customer of the names of one or more CSPs who provide priority assistance. The terms and conditions read to the prospective customer included information about billing, modems and advised that important terms would be sent via email. The ACMA notes that Aussie Broadband subsequently provided the customer with an email confirming the order. In that email Aussie Broadband advised that it does not offer 'priority restoration assistance to phone line customers with diagnosed life-threatening conditions'. Aussie Broadband also advised the customer to contact Aussie Broadband immediately on 1300 880 905 to cancel their application if the customer wanted priority restoration assistance. Aussie Broadband did not advise the customer in that email of the names of one or more CSPs who provide priority assistance. |

