

# Business Service Brokers (Telechoice) Investigation Report

## Findings

The ACMA finds that Business Service Brokers Pty Ltd trading as Telechoice (ACN 069 049 994) (**Telechoice**) contravened subparagraph 7(1)(a)(iv) and paragraphs 11(1)(a) and 11(1)(c) of the *Telecommunications (NBN Consumer Information) Industry Standard 2018* (the **Consumer Information Standard**) on 28 February 2019 by failing to comply with the requirements for Key Facts Sheets (**KFS**) and National Broadband Network (**NBN**) consumer plan advertisements.

The ACMA also finds that Telechoice contravened subsection 128(1) of the *Telecommunications Act 1997* (the **Act**) on 28 February 2019, by failing to comply with the Consumer Information Standard, being an industry standard determined under subsection 125AA(1) of the Act.

## Background

In a letter dated 27 March 2019, the ACMA advised Telechoice that its compliance with sections 7, 8, 9, 10 and 11 of the Consumer Information Standard (the **requirements for KFS and NBN consumer plan advertisements**) was being investigated.

That same letter advised:

- that the ACMA had assessed the Key Facts Sheets (**KFS**) and advertisements of four National Broadband Network (**NBN**) consumer plans that were available on Telechoice's website on 28 February 2019;
- that the plans assessed were the:
  - \$54.95/month NBN 12 (residential, 12Mbps, unlimited data) plan (**Plan 1**);
  - \$59.95/month NBN 25 (residential, 25Mbps, unlimited data) plan (**Plan 2**);
  - \$69.95/month NBN 50 (residential, 50Mbps, unlimited data) plan (**Plan 3**);
  - \$89.95/month NBN 100 (residential, 100Mbps, unlimited data) plan (**Plan 4**); and
- the ACMA's preliminary findings in relation to Telechoice's compliance with the requirements for KFS and NBN consumer plan advertisements.

Telechoice provided a response on 10 April 2019 to those preliminary views of the ACMA (the **Response**). Telechoice did not dispute the preliminary findings in the Response but did provide information indicating that the KFS and NBN consumer plan advertisements had been revised. The revised KFS and NBN consumer plan advertisements are not the subject of these final findings.

## Reasons

The table below sets out the ACMA's final findings and the reasons for those findings. In making its final findings, the ACMA has considered the Response.

**Compliance with the requirements for Key Facts Sheets and NBN consumer plan advertisements**

Provision of the Consumer Information Standard	Requirement	ACMA findings and reasons
7(1)(a)(iv)	<p>A retail carriage service provider must:</p> <p>prepare a key facts sheet containing information about NBN services, entitled "Key Facts Sheet: NBN Services", for each NBN consumer plan offered that:</p> <p>complies with the minimum requirements for information.</p>	<p>The KFS did not comply with all of the minimum requirements for information, namely:</p> <ul style="list-style-type: none"> <li>- paragraph 8(1)(a); and</li> <li>- subparagraph 8(1)(c)(iii)</li> </ul> <p>as detailed below.</p> <p>Therefore, the ACMA finds that Telechoice has contravened subparagraph 7(1)(a)(iv) of the Consumer Information Standard by not including the minimum requirements for information as required.</p>
8(1)	A key facts sheet must:	
8(1)(a)	if speed tier information is used to describe an NBN consumer plan in its advertising material for that plan, inform consumers that this represents the maximum possible speed that is available during off-peak periods.	<p>The NBN consumer advertisements for Plan 1, Plan 2, Plan 3 and Plan 4 referred to NBN speed tiers ('NBN12', 'NBN25', 'NBN50' and 'NBN100', respectively). However, the corresponding KFS for each NBN consumer plan advertisement did not indicate that the speed tier is the maximum possible download speed that is available during off-peak periods.</p> <p>Therefore, the ACMA finds that Telechoice did not include the minimum requirement in paragraph 8(1)(a) of the Consumer Information Standard in the KFS.</p>
8(1)(c)(iii)	<p>contain information that provides a guide to consumers about the level of online usage the relevant NBN consumer plan can support during the busy period, which includes the following information:</p> <p>for NBN consumer plans with the NBN broadband service speed tier 12/1 (Mbps) or lower – common online activities that are unlikely to be satisfactorily supported due to the limited data speed.</p>	<p>The KFS for Plan 1 provided information about the level of online usage that Plan 1 can support during the typical busy period, but it did not contain common activities that are not likely to be supported due to the limited data speed.</p> <p>Therefore, the ACMA finds that Telechoice did not meet the minimum requirement in subparagraph 8(1)(c)(iii) of the Consumer Information Standard in relation to the KFS for Plan 1.</p>
11(1)	A retail carriage service provider must:	

11(1)(a)	<p>where its advertising material relates to an NBN consumer plan for a fixed line NBN connection, include the information referred to in paragraph 8(1)(b), and subsection 8(2) where applicable, in its description of the NBN consumer plan in any such advertising material that is published in printed form or online, or broadcast by any means;</p>	<p>Paragraph 8(1)(b) of the Consumer Information Standard relevantly requires NBN consumer plan advertisements to state the hours over which the typical busy period download speed applies.</p> <p>The NBN consumer plan advertisements for Plan 1, Plan 2, Plan 3 and Plan 4 included speed tier information as text. A numerical representation of the typical busy period download speeds was provided, but it did not state the hours over which those speeds apply.</p> <p>Therefore, the ACMA finds that Telechoice has contravened paragraph 11(1)(a) by not including the typical busy period hours in its NBN consumer plan advertisements as required.</p>
11(1)(c)	<p>where speed tier information is included as text in advertising material about an NBN consumer plan, include a numerical representation of the typical busy period download speed in a font size that is at least as large as the speed tier information, and is positioned in close proximity to the representation of speed tier information about that NBN consumer plan.</p>	<p>Although numerical representations of the typical busy period download speeds for Plan 1, Plan 2, Plan 3 and Plan 4 were shown in the NBN consumer plan advertisement of each plan, they were presented in a smaller font size than the speed tier information and not in close proximity to the speed tier and pricing information.</p> <p>For Plan 1, the 'Typical evening speed 11 MBPS' was in a smaller font size than the 'NBN 12' font size.</p> <p>For Plan 2, the 'Typical evening speed 20MBPS' was in a smaller font size than the 'NBN 25' font size.</p> <p>For Plan 3, the 'Typical evening speed 40MBPS' was in a smaller font size than the 'NBN 50' font size.</p> <p>For Plan 4, the 'Typical evening speed 63MBPS' was in a smaller font size than the 'NBN 100' font size.</p> <p>Therefore, the ACMA finds that Telechoice has contravened paragraph 11(1)(c) by not representing the typical busy period download speed in a font size that is at least as large as the speed tier information. Nor was it in close proximity to the speed tier and pricing information in the NBN consumer plan advertisement as required.</p>

**Compliance with subsection 128(1) of the Act**

<b>Provision of the Act</b>	<b>Requirement</b>	<b>ACMA finding and reason</b>
Subsection 128(1)	If an industry standard applies to participants in a particular section of the telecommunications industry and is registered under Part 6 of the Act, each participant in that section of the industry must comply with the standard.	<p>The Consumer Information Standard:</p> <ul style="list-style-type: none"> <li>- is an industry standard determined under subsection 125AA(1) of the Act and registered under Part 6 of the Act; and</li> <li>- applies to retail carriage service providers (<b>CSPs</b>).</li> </ul> <p>Telechoice is a CSP that supplies internet services to the public. As a participant in the section of the telecommunications industry to which the Consumer Information Standard applies, Telechoice is required to comply with the Consumer Information Standard under subsection 128(1) of the Act.</p> <p>Telechoice did not meet the requirements for KFS and NBN consumer plan advertisements as described above.</p> <p>Therefore, the ACMA finds that Telechoice contravened subsection 128(1) of the Act on 28 February 2019 by failing to comply with subparagraph 7(1)(a)(iv) and paragraphs 11(1)(a) and 11(1)(c) of the Consumer Information Standard.</p>