

Simply NBN (Hello Broadband) Investigation Report

Findings

The ACMA finds that Simply NBN Pty Ltd trading as Hello Broadband (ACN 617 211 640) (**Hello Broadband**) contravened paragraphs 7(1)(c) and 11(1)(a) of the *Telecommunications (NBN Consumer Information) Industry Standard 2018* (the **Consumer Information Standard**) on 27 February 2019 for the reasons specified below.

The ACMA also finds that Hello Broadband contravened subsection 128(1) of the *Telecommunications Act 1997* (the **Act**) on 27 February 2019, as a consequence of 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 Hello Broadband 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 Key Facts Sheets (**KFS**) for the following two National Broadband Network (**NBN**) consumer plans were not available on the Hello Broadband website on 27 February 2019:
 - \$99/month 'Family' (residential, 25Mbps/5Mbps, 1TB data) plan (**Plan 1**);
 - \$109/month 'Entertainer' (residential, 50Mbps/20Mbps, 1TB data) plan (**Plan 2**);
- that the ACMA had assessed the NBN consumer plan advertisements that were available on Hello Broadband's website on 27 February 2019; and
- the ACMA's preliminary findings in relation to Hello Broadband's compliance with the requirements for KFS and NBN consumer plan advertisements.

Hello Broadband provided a response on 10 April 2019 to those preliminary views of the ACMA (the **Response**). Hello Broadband did not dispute the preliminary findings in the Response but advised that it had not acquired any new customers since the commencement of the Consumer Information Standard and that management of Hello Broadband intended to cease operations entirely.

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)(c)	<p>A retail carriage service provider must:</p> <p>make its key facts sheets available on its website via hyperlinks that are prominently displayed, and in close proximity or set out adjacent to the full description of the relevant NBN consumer plan.</p>	<p>When the ACMA reviewed Hello Broadband's website on 27 February 2019, the ACMA found that Hello Broadband did not have a KFS for Plan 1 and Plan 2 available on its website.</p> <p>Therefore, the ACMA finds that Hello Broadband has contravened paragraph 7(1)(c) by not making its KFS available on its website as required.</p>
11(1)(a)	<p>A retail carriage service provider must:</p> <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 requires NBN consumer plan advertisements to set out numerical information describing the typical busy period download speed that the average consumer can expect to receive during the busy period.</p> <p>The NBN consumer plan advertisements for Plan 1 and Plan 2 included a numerical representation of the 'Indicative Minimum Speed', but not the required typical busy period download speed. The 'Indicative Minimum Speed' was displayed as a range rather than a single download speed as required.</p> <p>Describing the download speed as a range does not comply as it provides multiple download speeds, which prevents the average consumer from knowing the typical download speed to expect during the busy period.</p> <p>Therefore, the ACMA finds that Hello Broadband has contravened paragraph 11(1)(a) by not including the typical busy period download speed in its NBN consumer plan advertisements as required.</p>

Compliance with subsection 128(1) of the Act

Provision of the Act	Requirement	ACMA finding and reason
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"> - is an industry standard determined under subsection 125AA(1) of the Act and registered under Part 6 of the Act; and - applies to retail carriage service providers (CSPs). <p>Hello Broadband 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, Hello Broadband is required to comply with the Consumer Information Standard under subsection 128(1) of the Act.</p> <p>Hello Broadband did not meet the requirements for KFS and NBN consumer plan advertisements as described above.</p> <p>Therefore, the ACMA finds that Hello Broadband contravened subsection 128(1) of the Act on 27 February 2019 by failing to comply with paragraphs 7(1)(c) and 11(1)(a) of the Consumer Information Standard.</p>

