

ACMA findings – Compliance with requirements in subsections 14(3) and 15(1) of the *Telecommunications Service Provider (NBN Service Migration) Determination 2018* and the *Telecommunications Act 1997*

Issue	Background	Number of customers that did not receive the required notification under the Determination	Period of contravention	ACMA finding
Data fallout issues	<p>On 18 March 2020, Telstra notified the ACMA that it had identified a data fallout issue which resulted in some customers not receiving a notification that their maximum attainable speed was less than the maximum advertised speed for their plan within the timeframe identified in subsection 14(3) of the Service Migration Determination (the Determination).</p> <p>Telstra explained that the compliance issue arose from its ingestion of data from NBN Co and its process for matching that data to a customer. Where data does not match a customer as it moves through its IT systems, misaligned records are removed and the data is manually matched to a customer. Errors in this manual process resulted in affected customers not receiving advice about their maximum attainable speed.</p> <p>On 11 November 2020, Telstra advised the ACMA that the duration of the data fallout issue was from 1 October 2018 to 7 July 2020.</p> <p>On 11 May 2021, Telstra advised that the total number of customers impacted by the data fallout issue was 6,393, with a subset of 24 customers who had moved from another provider where Telstra was unsure if the Determination applied.</p> <p>From the information we formed the view that up to 6,369 customers did not receive a notification in accordance with subsection 14(3) of the Determination because they were impacted by the data fallout issue.</p>	Up to 6,369	1 October 2018 to 7 July 2020.	Telstra contravened subsection 14(3) of the Determination by failing to notify up to 6,369 customers as required under subsection 14(3) of the Determination between 1 October 2018 and 7 July 2020 and in doing so, subsection 101(1) of the <i>Telecommunications Act 1997</i> (the Act).

Issue	Background	Number of customers that did not receive the required notification under the Determination	Period of contravention	ACMA finding
Other issues <i>(Detailed in following two rows)</i>	<p>On 17 July 2020, Telstra notified the ACMA that it had identified other issues with its notifications to customers who were not able to achieve the maximum advertised speed of their plan, which had resulted in:</p> <ul style="list-style-type: none"> (a) some customers not receiving a notification within the timeframe identified in subsection 14(3) of the Determination; and (b) some customers receiving a notification which did not meet the requirements of subsection 14(3) of the Determination. 			
<i>Belong business</i>	<p>In the draft enforceable undertaking Telstra provided to the ACMA on 30 October 2020, Telstra advised that the issues with the Belong business included:</p> <ul style="list-style-type: none"> (a) In respect of customers who could receive less than 30% of the applicable speed of their speed plan – until around June 2020, these customers were called three times, and if the customer was not reached, the customer was sent an SMS asking them to call back. For customers who were not able to be reached by telephone, it appears that there was no follow up contact by letter or email to notify the customer of their maximum attainable speed or the options outlined in Part 4 of the Determination. (b) In respect of customers who could receive 30% or more of the applicable speed of their speed plan: <ul style="list-style-type: none"> i. Until around May 2019, the email sent to customers did not advise the customer of their maximum attainable speed or the options outlined in Part 4 of the Determination. Instead, the notification relied on the customer responding to the email or otherwise contacting Belong to make them aware of those options. 	Up to 10,827	21 September 2018 to 15 October 2020.	Telstra contravened subsection 14(3) of the Determination by failing to notify up to 10,827 customers as required under subsection 14(3) of the Determination between 21 September 2018 and 15 October 2020 and, in doing so, subsection 101(1) of the Act.

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	<p>ii. Between May 2019 and June 2020, due to a combination of human error and the inadvertent pausing of an email transmission automation process, it appears that Belong did not send an email notification to customers in this cohort.</p> <p>On 11 November 2020, Telstra provided the ACMA with further information that indicates that system and process issues affecting the notification of some Belong customers covered the period 21 September 2018 to 15 October 2020.</p> <p>On 11 May 2021, Telstra advised that the number of customers affected by these system and process issues was to up to 10,827 customers.</p> <p>From the information we formed the view that up to 10,827 customers did not receive a notification in accordance with subsection 14(3) of the Determination because of these system and process issues.</p>			
<i>Telstra business</i>	<p>Telstra has advised that issues with the Telstra business included:</p> <ul style="list-style-type: none"> (a) Between 9 April 2019 and 5 June 2019, notifications to customers on Standard Plus plans did not include the option to move to a lower speed plan. (b) From late 2019 until 26 April 2020, as a result of coding errors, some customers were not provided with the option of a costless exit. (c) From late April 2020 to June 2020, some notifications did not include an option to move to a lower speed plan, due to an error in system logic. (d) Some customers who chose to exit their plan without cost were not provided with an appropriate refund. 	Up to 31,896	21 September 2018 to 30 June 2020.	Telstra contravened subsection 14(3) of the Determination by failing to notify up to 31,896 customers as required under subsection 14(3) of the Determination between 21 September 2018 to 30 June 2020 and, in doing so, subsection 101(1) of the Act.

Issue	Background	Number of customers that did not receive the required notification under the Determination	Period of contravention	ACMA finding
	<p>On 30 November 2020, Telstra reported to the ACMA that 58,788 customers who migrated for the first time to the NBN experienced a maximum attainable speed below the maximum advertised speed of their respective plan. It further noted that 2,099 of these customers were moving from another provider, where Telstra was unsure whether the requirements of the Determination applied.</p> <p>On 27 January 2021, Telstra clarified that the figure of 58,788 was specific to customers who are managed in its Siebel customer management system and did not include other affected customers. Telstra advised that the total number of Telstra customers impacted was 70,230, with a subset of 2,192 customers who had moved to another provider where Telstra was unsure whether the requirements of the Determination applied. Telstra also advised that these customers were potentially impacted during the period from 21 September 2018 to 30 June 2020.</p> <p>On 11 May 2021, Telstra advised, following further review, that the number of customers that did not receive a notification in accordance with subsection 14(3) of the Determination because of these system and process issues was up to 31,896.</p> <p>From the information we formed the view that up to 31,896 customers did not receive a notification in accordance with subsection 14(3) of the Determination because of these system and process issues.</p>			
<i>Charging requirements for Telstra and Belong customers</i>	<p>Telstra explained that, given the notification issues reported to the ACMA, there will be instances where customers were charged for their NBN service in contravention of subsection 15(1) of the Determination.</p> <p>Based on Telstra's admissions, we formed the view that Telstra contravened subsection 15(1) of the Determination by charging up to 49,092 customers for NBN services in circumstances where it was not permitted and, in doing so, subsection 101(1) of the Act.</p>	Up to 49,092, being the sum of affected customers identified above.	21 September 2018 to 15 October 2020	Telstra contravened subsection 15(1) of the Determination by charging up to 49,092 customers for an NBN service where it was not permitted, in contravention of subsection 15(1) of the Determination.

<p>Total / Summary</p>		<p>Up to 49,092 comprising:</p> <ul style="list-style-type: none"> • up to 6,369 customers impacted by the issues described at 'Data fallout issues' • up to 10,827 customers impacted by the issues described at 'Belong business' • up to 31,896 customers impacted by the issues described at 'Telstra business' 	<p>21 September 2018 to 15 October 2020</p>	<p>Telstra contravened subsection 14(3) of the Determination by failing to notify up to 49,092 customers as required under subsection 14(3) of the Determination between 21 September 2018 and 15 October 2020 and, in doing so, subsection 15(1) of the Determination by charging up to 49,092 customers where it was not permitted and, in doing so, subsection 101(1) of the Act.</p>
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