

Submission

28 November 2023

The Manager
Telecommunications Performance and Regulation Section
Australian Communications and Media Authority
PO Box 13112
Law Courts
Melbourne Vic 8110

Re: Proposal to make the Telecommunications (Financial Hardship) Industry Standard 2024

ACCAN thanks the Australian Communications and Media Authority (**ACMA**) for the opportunity to comment on the Proposal to make the Telecommunications (Financial Hardship) Industry Standard 2024 (**the draft standard**).

ACCAN is the peak body that represents consumers on communications issues including telecommunications, broadband, and emerging new services. ACCAN provides a strong unified voice to industry and government as we work towards communications services that are trusted, inclusive and available for all.

ACCAN's submission has been informed by feedback provided by other consumer and community organisations who regularly assist customers experiencing financial hardship with their telecommunications products and services, including Consumer Action Law Centre (**CALC**), Financial Counselling Australia (**FCA**), the Economic Abuse Reference Group (**EARG**), Consumer Credit Legal Service (WA) Inc. (**CCLSWA**) and WEstjustice.

The development of the financial hardship standard is a critical improvement in consumer protections for telecommunications consumers. ACCAN acknowledges and welcomes the actions by the Minister of Communications Michelle Rowland and the ACMA to progress the development of these protections.

The development of the draft standard, while an important milestone in advancing contemporary fit-for-purpose consumer protections appropriate for an essential service sector, forms part of the overall reforms required to modernize consumer protection arrangements. ACCAN welcomes this material step forward, in the knowledge that broader reforms on consumer protections, penalties, compliance, and enforcement are required to bring telecommunications consumer protections up to parity with the protections afforded to the consumers of other essential services.

ACCAN is supportive of the contents of the draft standard. We are pleased to see the draft standard:

- Expands the definition of financial hardship, ensuring that more consumers can access the help that they need to pay their bills.
- Makes it easier for consumers to find and access financial hardship policies online.

- Requires telecommunications providers to take all reasonable steps necessary to identify customers in financial hardship as early as possible.
- Requires providers to take into account the needs of the customer when setting up a financial assistance plan.
- Requires that financial hardship policies state that disconnection will only be used as a measure of last resort.

For ACCAN's extended comments, please see the attached copy of the draft standard (**Attachment A**). Our comments and recommendations seek to provide more meaningful and practical measures to support customers in financial hardship to better meet the objectives of the draft standard. They have been informed by the broad guidance provided by the Explanatory Statement issued by the Minister for Communications as part of the Telecommunications (Financial Hardship Industry Standard) Direction 2023, best practice from other essential service sectors and by the casework and the experiences of telecommunications customers, particularly vulnerable consumers.¹ However, in summary, ACCAN considers that the draft standard can be strengthened by:

- Prohibiting or further limiting credit action, disconnection, suspension, or restriction against a customer while the customer is discussing options or has made an application for financial hardship assistance with the provider, or who would reasonably appear to be in financial hardship based on the information the provider has available.
- Ensuring that during the assessment period for a customer's financial hardship assistance application, they cannot be disconnected from their telecommunications service.
- Expanding protections and options available for customers in financial hardship or other vulnerable circumstances, including Aboriginal and Torres Strait Islander customers, culturally and linguistic and diverse customers, customers with disabilities, and customers who are at risk of or experiencing domestic and family violence.
- Allowing for carriage service providers to assist in addressing financial hardship through the severance or reallocation of debts where financial hardship may be a consequence of economic abuse.
- Further protections to prevent customers in financial hardship or in other vulnerable circumstances from accumulating and having credit action taken against them for debts that they cannot afford to pay, including the option to be placed onto longer-term payment plans, the right to be informed and moved to a more affordable plan (including suitable post-paid options) and strengthening requirements for providers to identify and contact customers in financial hardship.
- Ensuring that customers experiencing financial hardship, risks to their health, safety, or other vulnerable circumstances, should only have their services restricted to the extent that they can still maintain access to basic calls to mobiles and landlines and data usage.

We thank the ACMA for the opportunity to comment on the draft standard. Should you wish to discuss any of the issues raised in this submission further, please do not hesitate to contact me at:

██████████.

Yours sincerely,

¹ Minister for Communications. 2023. Explanatory Statement - Telecommunications (Financial Hardship Industry Standard) Direction 2023. Available at: <https://www.legislation.gov.au/Details/F2023L01188/Explanatory%20Statement/Text>.



Policy Officer

The Australian Communications Consumer Action Network (ACCAN) is Australia's peak communication consumer organisation. The operation of ACCAN is made possible by funding provided by the Commonwealth of Australia under section 593 of the Telecommunications Act 1997. This funding is recovered from charges on telecommunications carriers.

ACCAN is committed to reconciliation that acknowledges Australia's past and values the unique culture and heritage of Aboriginal and Torres Strait Islander peoples. [Read our RAP](#)



Telecommunications (Financial Hardship) Industry Standard 2024

The Australian Communications and Media Authority makes the following industry standard under subsection 125AA(1) of the *Telecommunications Act 1997*.

Dated:

Member

Member/General Manager

Australian Communications and Media Authority

- DRAFT FOR CONSULTATION -

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Part 1—Preliminary

1 Name

This is the *Telecommunications (Financial Hardship) Industry Standard 2024*.

2 Commencement

This industry standard commences on [insert date].

Note: The Federal Register of Legislation may be accessed free of charge at www.legislation.gov.au.

3 Authority

This industry standard is determined under subsection 125AA(1) of the *Telecommunications Act 1997* and in accordance with sections 5, 6 and 7 of the *Telecommunications (Financial Hardship Industry Standard) Direction 2023*.

Note: The *Telecommunications (Financial Hardship Industry Standard) Direction 2023* was given to the ACMA by the Minister under subsection 125AA(4) of the Act.

4 Application of industry standard

For the purpose of subsection 125AA(1) of the *Telecommunications Act 1997* this industry standard:

- (a) applies to participants in the telecommunications industry, being carriage service providers that deal with residential, small business and not-for-profit customers;
- (b) deals with the following telecommunications activities of those providers:
 - (i) information to be given to customers, and made available to potential customers, relating to financial hardship matters; and
 - (ii) support to be given by providers to customers who are, or may be, experiencing financial hardship; and
- (c) is drafted to give effect to the objectives set out in subsection 7(1) of the *Telecommunications (Financial Hardship Industry Standard) Direction 2023* and address the matters set out in subsection 7(2) of that Direction as they relate to the providers referred to in paragraph (a).

5 Definitions

In this industry standard:

Act means the *Telecommunications Act 1997*.

app means a software application used by customers to access information in connection with a provider's telecommunications products and to communicate with a provider.

application means an application made by a customer for financial hardship assistance.

application form means the application form used by a provider for customers to access financial hardship assistance under the provider's financial hardship policy.

authorised representative means a person who has authority from a consumer to deal with a provider on behalf of that consumer as their authorised agent.

bill means an invoice from a provider which advises a customer of the total of each billed charge.

billed charge means a charge that is due for payment by a customer in respect of a telecommunications product supplied by a provider.

business day means a day that is not a Saturday, Sunday or gazetted public holiday in the location of the provider's principal place of business.

charge means the amount of money that is charged by a provider under a consumer contract in respect of a telecommunications product supplied by the provider.

consumer means:

- (a) an individual who acquires or may acquire a telecommunications product for the primary purpose of personal or domestic use and not for resale;
- (b) a not-for-profit organisation which acquires or may acquire one or more telecommunications products which are not for resale at the time it enters into the consumer contract; or
- (c) a business which acquires or may acquire one or more telecommunications products 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 provider which is or is estimated on reasonable grounds by the provider to be, no greater than \$100,000.

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

commencement day means the day on which this industry standard commences.

consumer contract means an arrangement or agreement between a provider and a consumer for the supply of a telecommunications product to that consumer, including a standard form of agreement formulated by a provider for the purposes of section 479 of the Act.

credit management means the process used by a provider to:

- (a) help its customers to manage their expenditure on telecommunications products;
- (b) manage any credit risks that are relevant to the provider; and
- (c) collect outstanding debts from customers.

credit management action means any action taken by a provider in relation to a customer using a process described in paragraphs (b) and (c) of the definition of **credit management**, including a restriction, suspension or disconnection of the customer's telecommunications service.

customer means a consumer who has entered into a consumer contract with a provider and includes a current customer of a provider or former customer who owes money to a provider in connection with their consumer contract.

disconnection means the termination of a telecommunications service provided to a customer under a customer contract.

discount means a reduction of the ordinary amount of a charge or billed charge.

financial hardship means a situation where:

- (a) a customer is unable to discharge their financial obligations owed under their consumer contract or otherwise discharge their financial obligations to a provider, due to:
 - (i) personal or household illness;
 - (ii) unemployment;
 - (iii) reduced income;
 - (iv) being the victim/survivor of domestic or family violence;
 - (v) a death in the family;
 - (vi) a change in personal or family circumstances;
 - (vii) a natural disaster;
 - (viii) unexpected events or unforeseen changes that have impacted the customer's income or expenditure;
 - (ix) other reasonable causes; and
- (b) the customer believes that they will be able to discharge those obligations if the relevant arrangement for financial hardship assistance relating to the supply of telecommunications products by the provider to the customer is implemented on a temporary or ongoing basis, depending on the personal situation of the customer.

financial hardship assistance means the assistance a provider offers to help financial hardship customers to continue to access their telecommunications products.

financial hardship customer means a customer or former customer who is, or may be, experiencing financial hardship or other financial difficulties.

financial hardship policy means the financial hardship policy established by a provider under section 7.

long term assistance means financial hardship assistance sought by a financial hardship customer for a period of more than 2 billing cycles to help with ongoing financial difficulties.

options for financial hardship assistance means the options to help with payments, options to keep the customer connected and any other options a provider offers to assist financial hardship customers to continue to access their telecommunications products.

options to help with payments include:

- (a) temporarily postponing, extending or deferring the time for paying a bill;
- (b) discounting a bill charge;
- (c) waiving a debt;

Commented [CG1]: (a)(iii) should be replaced with:

low or insufficient income, including reduced access to income.

Commented [CG2]: We consider that the terminology the draft standard should adopt is 'victim survivor' as opposed to 'victim/survivor'. Additionally, this provision should be replaced with:

'being the victim/survivor of domestic or family violence or at risk of domestic or family violence.'

Commented [CG3]: The drafting of this provision may lead to consumers satisfying condition (a) of the definition while not satisfying condition (b). If a consumer does not believe that they will be able to discharge their obligations under (b) (they may require a lower repayment plan for example) then the consumer could be deemed to not be in a financial hardship situation (as they may have rejected a payment arrangement on the grounds of it being an unreasonable amount). The subjective test which the consumer is subject to in this provision relies on the offer which is given to them by the provider which may not be uniformly suitable to each individual.

Commented [CG4R3]: Should this provision remain it should be amended to:

'the customer believes that they will be able to discharge those obligations (whether partially or in full) if the relevant arrangement for financial hardship assistance relat

Commented [CG5]: ACCAN considers that the definition be revised to:

financial hardship assistance 'means the assistance (such as payment assistance) a provider offers to help financial hardship customers, including support to help customers

Commented [CG6]: ACCAN would seek clarification on when a consumer becomes a financial hardship customer. Section (b) of the definition of financial hardship defines financial hardship as whether someone believes they can comply with the provider's offer of a financial hardship arrangement. At what point does a customer become a

Commented [CG7]: Additionally, the term billing cycle is undefined in the draft standard.

We consider that this definition should be amended to:

"long term assistance means financial hardship assistance

Commented [CG8]: ACCAN considers that this definition title should be amended to:

options to help with payments (payment assistance).

Additionally, ACCAN considers that an additional clause

Commented [CG9]: This should be amended to:

'discounting a bill charge (or other charges)';

Commented [CG10]: This should be amended to:

'waiving a debt, partially or in full'.

- (d) payment plans which are tailored to meet a customer's ability to pay; and
- (e) establishing an arrangement whereby the provider matches payments made by the customer or gives credit in exchange for payments made by the customer.

options to keep the customer connected include:

- (a) controls on how a customer can incur charges with the provider, including spend controls;
- (b) restrictions;
- (c) removing non-essential features of a telecommunications product at no cost;
- (d) transferring the customer to a different telecommunications product that better suits their circumstances, including to a pre-paid service or a cheaper plan; or
- (e) adjusting internal threshold limits so that the customer is not disconnected.

personnel includes staff or contractors engaged by or on behalf of a provider.

provider means a carriage service provider referred to in paragraph 4(a).

provider's website means a website operated by a provider and used in connection with the provider's telecommunications products.

reducing data speed means where a provider decides to control the maximum data transfer rate on an internet carriage service where the customer has exceeded the specified data allowance under their consumer contract.

relevant industry code means an industry code registered under Part 6 of the Act, which imposes requirements on a provider relating to financial hardship.

reminder notice means a written notice sent to a customer relating to an overdue bill.

representative means an advocate or an authorised representative of a consumer.

restriction means a restriction imposed by a provider on a customer's access to telecommunications services, or a feature of those services, offered for supply by the provider and includes, reducing data speeds, or imposing spending or other usage limits.

short term assistance means financial hardship assistance sought by a financial hardship customer for a period of no more than 2 billing cycles to help with a financial difficulty.

spend control means an option made available to a customer by a provider to assist the customer to manage or limit the amount of charges they incur or data they use in relation to a particular telecommunications product.

subscription broadcasting service has the same meaning as in the *Broadcasting Services Act 1992*.

subscription narrowcasting service has the same meaning as in the *Broadcasting Services Act 1992*.

suspension means a suspension imposed by a provider on a customer's access to a telecommunications service, excluding access to emergency service numbers.

Commented [CG11]: (d) should be amended to: 'payment plans which are tailored to meet a customer's ability to pay, including payments for upcoming charges and repayment of arrears'; and

Commented [CG12R11]: Additionally, ACCAN believes that providers should be required to offer long-term payment plans (equal installments up to 2 years if required) for any outstanding debts to assist customers.

Commented [CG13]: ACCAN considers that 'restrictions' should be replaced with:

'restriction of a service other than basic calls to mobiles and landlines and data usage that is suitably required to allow the customer to easily access, interact and continue with their reasonable everyday living activities, including with other essential services'

Commented [CG14]: ACCAN considers that the provider must be required to explain to the consumer its decision making behind what features it deems essential and non-essential in its communications with the consumer related to this clause.

Commented [CG15]: This note should be added under subsection (d):

'If this option is utilised the provider will not be permitted to require the customer to pay a lump sum for any relevant product, contract or service, or charge an early termination fee. The provider will offer the customer financial hardship support in accordance with the payment plan provisions of this standard for any outstanding balances the customer has not recontracted for. If this option is utilised, the provider must notify the customer of the cost of the relevant lowest cost plan they (or an affiliated provider) provide, including the cost of the lowest cost plan that is a similar nature to which customer had been receiving from the provider.'

ACCAN considers revising this provision will clarify that the onus is not placed on customers to identify and request this option, in circumstances where the customer is vulnerable and is experiencing financial hardship due to debts incurred from mis-selling.

Commented [CG16]: ACCAN suggests that this provision be amended to:

"short term assistance means financial hardship assistance sought by a financial hardship customer for a period of no more than 3 billing cycles to help with a financial difficulty."

This would also bring the draft financial hardship standard in line with current financial hardship practices in the banking sector - financial hardship variations are typically provided for 3 months then a review is conducted before providing a further 3 months of assistance.

telecommunications goods means any goods supplied by a provider for use in connection with the supply of a telecommunications service, whether or not the goods are supplied in conjunction with, or separately from, a telecommunications service.

TIO means the Telecommunications Industry Ombudsman.

telecommunications product means telecommunications goods or a telecommunications service.

telecommunications service means:

- (a) a listed carriage service or any service supplied by a provider in connection with that service; and
- (b) a content service (other than a subscription broadcasting service or a subscription narrowcasting service) provided by a provider in connection with the supply of a listed carriage service.

Note: A number of other expressions used in this industry standard are defined in the Act, including the following:

- (i) ACMA;
- (ii) carriage service provider;
- (iii) content service;
- (iv) emergency service number;
- (v) internet carriage service;
- (vi) listed carriage service; and
- (vii) Telecommunications Industry Ombudsman.

6 References to other instruments

In this industry standard, unless the contrary intention appears:

- (a) a reference to any other legislative instrument is a reference to that other legislative instrument as in force from time to time; and
- (b) a reference to any other kind of instrument is a reference to that other instrument as in force from time to time.

Note 1: For references to Commonwealth Acts, see section 10 of the *Acts Interpretation Act 1901*; and see also subsection 13(1) of the *Legislation Act 2003* for the application of the *Acts Interpretation Act 1901* to legislative instruments.

Note 2: For references to instruments that are not legislative instruments, see section 589 of the Act.

Note 3: All Commonwealth Acts and legislative instruments are registered on the Federal Register of Legislation.

Part 2—Financial Hardship Policy

7 Establish, comply with and review financial hardship policy

- (1) A provider that offers to supply telecommunications products to consumers under a consumer contract must:
 - (a) establish a financial hardship policy that complies with the minimum requirements in this Part; and
 - (b) comply with that financial hardship policy.
- (2) The provider's Chief Executive Officer (or equivalent) must approve the financial hardship policy and be responsible for its implementation and operation.
- (3) A provider must review its financial hardship policy and make any relevant changes to ensure the policy is fit for purpose at least once in each period of 12 months after the commencement day.

8 Minimum requirements – accessibility and promotion

- (1) A financial hardship policy must:
 - (a) be set out in writing;
 - (b) be clear and use plain language;
 - (c) be easy to understand and use;
 - (d) be accurate and up to date;
 - (e) use a font size that is at least equivalent to 12 point Times New Roman;
 - (f) be in a format that is accessible, including to consumers with disabilities or from cultural or linguistically diverse backgrounds;
 - (g) be made available to the public on the provider's website and on an app where the provider uses an app:
 - (i) via a direct hyperlink from the home page of the website and landing page of the app; and
 - (ii) in a concise summary form on the same web page or location that the provider's application form and financial hardship policy are kept.
- (2) A provider must make its application form available to the public on the same web page or location that the provider's financial hardship policy is kept.

9 Minimum content requirements – general

A financial hardship policy must:

- (a) set out the provider's processes for assisting financial hardship customers;
- (b) be focused on the needs and expectations of financial hardship customers;
- (c) include a statement of intention, which expressly recognises that:
 - (i) telecommunications is an essential service;

Commented [CG17]: ACCAN considers that consumers should have free access to an interpreter service that their provider should direct them towards in order to fulfill this requirement. ACCAN notes that other essential service providers are required to offer free access to an interpreter service in order to ensure reasonable access to information and support for all consumers experiencing hardship.

Commented [CG18]: ACCAN is pleased to see this requirement present in the draft standard. The inclusion of this requirement in the draft standard addresses some of the concerns of ACCAN members and stakeholders regarding the visibility of financial hardship policies.

ACCAN considers that section 8(1)(g) be amended to:

(g) be made **clearly** available to the public on the provider's website and on an app where the provider uses an app

Commented [CG19]: This provision should be amended to:

'A provider must make its application form available to the public on the same web page **and all other locations** that the provider's financial hardship policy is kept.'

Additionally, the financial hardship policy should be required to be provided at minimum through Microsoft word and pdf formats, via a web form, including a return email address written on the application form (and a postal address if available) to ensure that consumers who use a variety of communications methods are adequately served by their provider. The application form should include a template that can easily be filled in by the customer that itemises common possible expenses and debts that a person applying for financial hardship may be dealing with.

Commented [CG20]: ACCAN considers that an additional clause be added to section 9. It should state that a financial hardship policy must:

"ensure providers never insist customers make one-off or installed payments or require a customer to accept a payment extension before offering the customer financial hardship assistance"

Energy providers are required to comply with similar provisions in accordance with the National Energy Retail Rules.

- (ii) the goal of the policy is to prioritise keeping customers experiencing financial hardship connected; and
- (iii) disconnection will only be used by the provider as a measure of last resort;
- (d) state that customers have a right to apply for financial hardship assistance;
- (e) state that it is free of charge for customers to use;
- (f) identify the times that customers can contact the provider to speak with personnel who are authorised to deal with applications for financial hardship assistance, and include a phone number and at least one other contact point for that purpose; and
- (g) set out information on support services for customers in financial hardship including how the customer can contact financial counselling services, and the TIO.

10 Minimum content requirements – applications

A financial hardship policy must:

- (a) permit customers to make an application for financial hardship assistance using all contact methods that the provider ordinarily makes available to its customers to contact the provider;
- (b) provide for customers to obtain assistance to make an application for financial hardship assistance, including by telephone;
- (c) set out how a customer can apply for financial hardship assistance and monitor the progress of their application;
- (d) include a copy of the provider's application form(s); and
- (e) set out the processes the provider uses for managing applications for financial hardship assistance.

11 Minimum content requirements – assessment of applications

A financial hardship policy must:

- (a) set out the steps a provider will take to assess a customer's eligibility for financial hardship assistance in accordance with section 16;
- (b) set out the eligibility criteria referred to in section 16;
- (c) specify the types of information a customer may be required to provide to support an application to access financial hardship assistance depending on the circumstances referred to in subsections 16(2) and (3);
- (d) state that customers seeking short term assistance or who are victims or survivors of domestic or family violence are not required to provide evidence to support their application;
- (e) specify the timeframes that will apply for processing an application to access financial hardship assistance and to access assistance, including timing for assessments in section 17;

Commented [CG21]: ACCAN considers that this provision should be amended to read:

"the goal of the policy is to prioritise keeping customers experiencing financial hardship connected and **minimise customer debt and unaffordable payment obligations; and**"

Commented [CG22]: ACCAN considers that this provision should be replaced with:

'Disconnection, suspension or restriction will only be used by the provider as a measure of last resort, after all other options to keep the customer connected have been exhausted'

Commented [CG23]: ACCAN suggests that section 9(f) is reworded to:

"identify the times that customers can contact the provider, **and the customer's right to develop and be contacted by the provider in accordance with a tailored communications plan**, to speak with personnel who are authorised to deal with applications for financial hardship assistance, and include a phone number and at least one other contact point for that purpose; and"

Additionally, ACCAN considers that in situations of domestic and family violence, victim survivors should be able to speak to the same staff contact to avoid having to repeat or recount their circumstances.

Commented [CG24]: The draft standard should require that providers include relevant contact details and phone numbers under 9(g) for the TIO, the National Debt Helpline and financial counselling services.

Additionally, ACCAN considers that references to the TIO and National Debt Helpline should be present in further correspondence to consumers with wording agreed to by the National Debt Helpline and the ACMA.

Commented [CG25]: ACCAN considers that the ACMA should insert a new provision to section 10. This provision would provide support and information to consumers experiencing overlapping vulnerabilities. This section may read as:

10(f) **'provide for customers experiencing family or domestic violence to set out their safe contact methods and manage third party authorisations on their account or end user products and services.'**

Commented [CG26]: ACCAN considers that the draft standard should include specific wording to ensure that providers must communicate their financial hardship policy to their consumers using methods that are accessible and inclusive to consumers with a disability.

Commented [CG27]: ACCAN considers that the draft standard should include specific wording to ensure that consumers should be able to make an application for financial hardship assistance using methods that are accessible and inclusive to consumers with a disability.

Additionally, the draft standard should explicitly require that providers offer assistance to consumers to make an

- (f) set out the options for financial assistance a provider makes available, including information about general assistance the provider offers to customers to manage payment obligations, and associated debts, to the provider; and
- (g) not include multi-step processes or mechanisms that unreasonably delay or prevent a customer from being assessed for eligibility to receive financial hardship assistance or from submitting an application.

12 Minimum content requirements – complaints and review

A financial hardship policy must:

- (a) include information about how customers can make a complaint to the provider about a decision in relation to their application or seek a review of that decision by the provider;
- (b) set out the process by which the customer can make a complaint to the TIO for external dispute resolution; and
- (c) state that making a complaint referred to in paragraphs (a) or (b) does not prevent the customer from agreeing to an arrangement for financial hardship assistance.

13 Minimum content requirements – financial hardship policy summary

The summary referred to in subparagraph 8(1)(g)(ii) must:

- (a) be a maximum of 1 page in length;
- (b) state that financial hardship customers have a right to apply for short term assistance and long term assistance;
- (c) advise that financial hardship assistance is free of charge;
- (d) set out:
 - (i) how financial hardship is defined;
 - (ii) the options for financial hardship assistance offered by the provider; and
 - (iii) how the customer can make an application for financial hardship assistance.

Commented [CG28]: ACCAN considers that a financial hardship policy should make reference to the ACMA's website page: <https://www.acma.gov.au/how-telcos-must-handle-complaints> in addition to making explicit reference to the Telecommunications (Consumer Complaints Handling) Industry Standard 2018.

Commented [CG29]: ACCAN considers that the financial hardship policy summary should include how customers can make a complaint to their provider through providing consumers the contact details of the TIO and the National Debt Helpline. Consumers should additionally be provided with the contact details of financial counselling services.

subsection (ii) should be amended to: the options for financial hardship assistance offered by the provider (**including incorporating the use of the words 'payment assistance' prominently on the summary**),'

Part 3—Financial Hardship Assistance

14 Minimum requirements - identifying financial hardship customers

A provider must take all reasonable steps necessary to identify financial hardship customers as early as possible, including by:

- (a) following the steps in section 15; and
- (b) making reasonable efforts to communicate in writing with a customer with more than 2 consecutive overdue bills or a total of 3 overdue bills in the previous 6 month period to advise on options for financial hardship assistance.

15 Minimum requirements - communicating with customers

Advice and information

- (1) A provider must, where it communicates with a customer and the customer indicates they are a financial hardship customer:
 - (a) advise the customer about the provider's financial hardship policy and application form;
 - (b) discuss the provider's options for financial hardship assistance under the policy, and the processes and timeframes for applying for, and accessing, financial hardship assistance;
 - (c) offer to provide the customer with a copy of the provider's application form and financial hardship policy in a form that is suitable to the customer;
 - (d) offer to provide an email address and telephone number for a contact person who is authorised to deal with financial hardship matters and to discuss options for assistance; and
 - (e) assist customers with specific accessibility needs to make an application, including customers with disabilities, from culturally or linguistically diverse backgrounds or with other special needs.
- (2) For the purpose of subsection (1), a customer indicates they are a financial hardship customer if the customer:
 - (a) mentions that they have had an overdue bill;
 - (b) informs the provider that they wish to know about options to assist them to reduce or manage spending;
 - (c) informs the provider that they need help paying a bill;
 - (d) mentions they are in any of the situations listed in paragraph (a) of the definition of financial hardship;
 - (e) uses any language that indicates they are having financial difficulties, including any of the following, or similar, terms to describe their financial situation: money problems, difficulty, struggling, trouble, issues, problems, low income, cost of living or pressure; or
 - (f) the customer otherwise indicates that they are experiencing financial hardship.

Commented [CG30]: ACCAN considers that using the terminology of "Financial Hardship assistance and Payment assistance" throughout this standard would facilitate more consumers reaching out to receive assistance. This phrasing has been adopted by the Essential Services Commission and is required to be provided by energy and water providers in Victoria.

Commented [CG31]: ACCAN supports this requirement and believes it will assist consumers who are having bill payment difficulties. This requirement may not have an effect on postpaid services where consumers only receive the following months' service after first paying for it.

ACCAN considers that 14(b) be replaced with:

'(b) making reasonable efforts to immediately or as soon as practical communicate in writing with a customer to advise on options for financial hardship assistance:

(i) if a customer has 2 consecutive overdue bills (including after 2 consecutive missed payments where a late fee or additional charge has been imposed on the customer by the provider); and

(ii) if (i) does not apply, if a customer has 3 overdue bills in the previous 6 or 12 month period; or

(iii) if a customer has arrears of more than \$55 (inclusive of GST)'

Energy providers are required to comply with similar provisions in accordance with the 'payment difficulty

Commented [CG32]: ACCAN considers that this section should include a provision requiring telecommunications providers inform post paid customers how much they could save if they were to switch to the providers' (or affiliated providers') lowest post paid plan. This should include a visible and accessible plotting of the customers usage in relation to the proposed lowest cost post paid plan. This requirement could be drafted in a similar fashion to the 'deemed best offer' bill notification provisions that energy providers must comply with under the Essential Services Commission's Energy Retail Code of Practice.

Commented [CG33]: ACCAN considers that this provision should be amended to:

"assist customers with specific accessibility **and safety** needs to make an application, including **victim survivors of domestic and family violence**, customers with disabilities, from culturally or linguistically diverse backgrounds or with other **specific** needs."

ACCAN considers that providers should make the application process accessible from the outset in addition to providing

Commented [CG34]: ACCAN queries how this provision interacts with subsection (b) of the definition of financial hardship. Reflecting our above comments, ACCAN considers that subsection (b) of the definition of financial hardship should be removed to ensure that 15(2)(b) can be read more clearly as a according to the definition of financial hardship a consumers must fulfil both subsection (a) and (b) however only (a) is referred to here.

When to give financial hardship policy and application form

- (3) A provider must, when communicating with a customer, give the customer a copy of its financial hardship policy and application form as soon as practicable after the customer:
- (a) requests copies from the provider;
 - (b) accepts the offer referred to in paragraph (1)(c); or
 - (c) informs the provider that they wish to make an application for financial hardship assistance;
- by a method that is suitable for the consumer.

Minimum requirements for correspondence to customers

- (4) A provider must include, at a minimum, the following information in its written bills and reminder notices, and written communications sent to customers under paragraph 14(b):
- (a) advice to customers about their financial hardship policy, including options for financial assistance; and
 - (b) a hyperlink or web address for the page on the provider's website where that policy is located, and if the provider uses an app, details about where it can be found on that app; and
 - (c) the contact details referred to in paragraph (1)(d).
- (5) Where a customer has indicated a preferred method or manner for receiving written communication from the provider, the correspondence referred to in subsection (4) must be sent to the customer via that method or manner.

16 Minimum requirements - assessing eligibility

Who is eligible for financial hardship assistance?

- (1) A customer is eligible for financial hardship assistance from their provider if:
- (a) the customer's situation meets the definition of financial hardship; and
 - (b) the customer wishes to access options for financial assistance made available by the provider.

Requests for information or documents from customer

- (2) Subject to subsection (3), when assessing eligibility to receive financial hardship assistance, a provider must not request a customer to provide information (including documents) to show that they are in a financial hardship situation:
- (a) if the application is for short term assistance;
 - (b) if it appears that the customer may be a victim or survivor of domestic or family violence; or
 - (c) that is irrelevant to the application or unreasonably onerous.
- (3) Subject to subsections (6) and (7), a provider may request a customer to provide information to show that they are in financial hardship if:
- (a) it appears that the arrangement will need to be for long term assistance;

Commented [CG35]: In this section it would be preferable to use the words 'financial hardship and payment assistance'.

Commented [CG36]: ACCAN considers that the draft standard should include a provision that makes it clear to customers that during the assessment period for their financial hardship application, they cannot be disconnected from their service. CSPs should not be able to disconnect consumers who are in the process of being assessed for a financial hardship policy. Consumers should be able to notify providers about their circumstances and have confidence that until the result of their assessment, their service will not be disconnected due to an assumption of financial hardship upon application.

Commented [CG37]: An additional clause should be added to this section stating that if the customer is receiving Centrelink income, no evidence of financial hardship should be required. A presumption of financial hardship should apply both for short term and long term assistance provided as part of financial hardship assistance.

Commented [CG38]: ACCAN supports this requirement however would like to emphasise that consumers having to provide information to their telecommunications provider about the nature of their financial hardship may prove to be a barrier for consumers entering financial hardship arrangements.

Additionally, ACCAN would suggest that:

16(2)(a) be amended to:

"if the application is for short term assistance or assistance for a period of less than 3 months"

16(2)(b) be amended to:

"if it appears that the customer may be at risk of or experiencing domestic or family violence."

16(2)(c) be amended to:

"that is irrelevant to the application or unreasonable onerous, considering the customers' individual circumstances".

- (b) the provider considers that the amount to be repaid is large or significant;
- (c) the customer has been a customer for less than 2 months; or
- (d) the provider reasonably believes there is a possibility of fraud.

Note: Subsection (3) does not require a provider to request information from a customer to show that they are in financial hardship.

- (4) Where a provider requests information under subsection (3), it must:
 - (a) state the name, email address and telephone number of a contact person to discuss the request;
 - (b) provide the customer with points of contact to give the information to the provider, including:
 - (i) an email address;
 - (ii) a relevant electronic method (including via a website or app);
 - (iii) a physical address (including in store if the provider has a store);
 - (iv) another point of contact appropriate to the customer's needs;
 - (c) advise the customer that the provider will only:
 - (i) request information if it is strictly necessary for it to conduct its assessment of eligibility; and
 - (ii) retain a copy or record of any information received from the customer for the period that is required to complete its assessment;
 - (d) provide the customer with details about how any information requested in a written form to support an application can be presented to and sighted by an authorised representative of the provider; and
 - (e) inform the customer:
 - (i) that the provider may use that information as a basis for its assessment;
 - (ii) what other information the provider may use as a basis for its assessment;
 - (iii) that it may be unable to complete the assessment if the information requested is not provided or is otherwise incomplete; and
 - (iv) that providing false, inaccurate or misleading information may result in the provider cancelling their assessment.
- (5) The information and advice referred to in subsection (4) must be provided to the customer in writing and the customer must be given sufficient time to locate the information requested of the customer and present it for sighting in accordance with section (7), as the case may be.
- (6) A provider must only request information from a customer under subsection (3) if it is strictly necessary to conduct the assessment of eligibility for financial hardship.
- (7) Where a provider requests information in a written form from a customer under subsection (3) to support an application, the provider must establish a process to

Commented [CG39]: ACCAN considers that the evidentiary requirements for accessing financial hardship assistance should be proportionate to the extent of the assistance being sought. We support the ACMA's framing of the provisions, but consider that further clarity and certainty for providers and consumers could be provided by specifying a monetary threshold of materiality.

Accordingly, we consider that a consumer should not have to provide information to establish financial hardship unless:

The provider considers that the amount to be repaid is greater than \$1000.

The provider reasonably believes there is a possibility of fraud.

ACCAN considers that where:
'the provider reasonably believes there is a possibility of fraud, and has evidence that it has based this belief on that it must provide this information to the Telecommunications Industry Ombudsman and/or ACMA in the event that the information request is subject to a complaint or dispute'

Commented [CG40]: ACCAN believes that these provisions are suitable for information requests to customers under subsection (3). ACCAN considers that where a provider requests information under subsection (3) that the provider should indicate to the consumer that the data provided to them under this information request will be deleted after its use in completing the assessment.

ACCAN considers that if the customer has a third party authorisation on their account, the provider must inform the customer what information could be provided to the third party and assist the customer to make any changes to the authority if necessary.

Commented [CG41]: This provision should require that the telephone number be adequately staffed during business hours.

Commented [CG42]: ACCAN considers that 16(4)(iii) be amended to:

(iii) should the provider not receive all the requested information from the customer, that it will complete the assessment based on the information available, provided it is sufficient to inform a reasonable assessment of the individuals eligibility; and

Commented [CG43]: ACCAN considers that "sufficient time" in this instance be 30 days.

allow for it to be presented to and sighted by an authorised representative of the provider for the purposes of assessing eligibility.

17 Minimum requirements – timing for assessments and advice on outcomes

When a provider assesses a customer's eligibility to access financial hardship assistance it must:

- (a) advise the customer how long it will take to complete the assessment;
- (b) complete the assessment as soon as practicable, but in any event, within 5 business days of receiving a complete application;
- (c) inform the customer of the outcome of an assessment as soon as possible, but in any event, within 2 business days after completing the assessment; and
- (d) advise the customer immediately if it becomes clear to the provider that the customer cannot be provided with financial hardship assistance because they do not meet the eligibility criteria specified in the provider's financial hardship policy.

18 Minimum requirements – options for financial assistance

- (1) A provider must make available, options for financial assistance to help financial hardship customers pay their bills that are realistic, appropriate and tailored to suit the needs of the customer, including a minimum of:

- (a) the options referred to in paragraphs (a) and (d) of the definition of *options to help with payments* in section 5, and one other option referred to in that definition; and
- (b) three options to keep the customer connected.

Note: This section does not limit the number of options a provider can offer or accept to help financial hardship customers with their bills.

- (2) When tailoring an option for financial assistance to suit the needs of a customer, a provider must account for the customer's individual circumstances and capacity to pay, including by considering options appropriate to the ongoing management of payments for customers who are victims or survivors of domestic or family violence.

19 Acceptance and commencement

An arrangement for financial hardship assistance must commence as soon as the customer indicates to a provider that they agree to the arrangement.

20 Minimum requirements – communicating arrangements

Information and advice to customers about arrangements for financial hardship assistance

Where a customer has agreed to an arrangement for financial hardship assistance with a provider, the provider must, give the customer a notice in writing:

- (a) setting out the details of the customer's arrangement for financial hardship assistance;

Commented [CG44]: This clause should also require the provider to notify the customer in writing via SMS, email and mail in addition contacting the customer by phone, including providing full contact details of the TIO and relevant financial counselling services.

Commented [CG45]: ACCAN considers that a clause should be added to this section, or the corresponding relevant section of the standard which ensures the following, based on the needs of the customer:

- The customer experiencing financial hardship is not required to use direct debit as a payment method and is not charged any fee for utilising alternative payment methods.

- Providers should not be permitted to transfer customers to a pre-paid telecommunications service as a default response to a consumer experiencing financial hardship.

Commented [CG46]: ACCAN considers that providers should offer two other options to support consumers pay their bills instead of the one other option outside of paragraphs (a) and (d) of the definition to help with payments in section 5.

Additionally, ACCAN considers that there should be a mandatory requirement for telecommunications providers to waive late payment fees for consumers receiving financial hardship assistance.

Commented [CG47]: ACCAN suggests that the note below section 18(1)(b) be amended to:

Note: This section does not limit the number of options a provider can offer or accept to help financial hardship customers with their bills.

A provider must not offer a financial hardship customer a pre-paid service until it has taken all reasonable steps to offer the customer the most suitable low-cost post-paid plan offered by the provider (or its affiliates), to minimise

Commented [CG48]: ACCAN considers that this subsection be amended to:

"When tailoring an option for financial assistance to suit the needs of a customer, a provider must account for the customer's individual circumstances on a case by case basis and capacity to pay, including by considering options appropriate to the ongoing management of payments for

Commented [CG49]: This section should be reworded to ensure that there is less ambiguity in its drafting. Suggested rewording:

'An arrangement for financial hardship assistance must commence on the same day that the provider receives the acceptance of the arrangement by the customer either verbally or in writing, and if certain arrangements cannot

Commented [CG50]: ACCAN considers that this provision should be amended to be in accordance with clause 19. ACCAN would suggest that the provision be amended to:

Where a customer has agreed to an arrangement for financial hardship assistance with a provider, the provider must, in accordance with clause 19, give the customer a notice in writing.

- (b) setting out the customer's rights and obligations under the arrangement for financial hardship assistance;
 - (c) stating that the customer must promptly advise the provider if their situation changes during the term of the arrangement for financial hardship assistance;
 - (d) identifying the circumstances in which credit management action may be undertaken;
 - (e) stating the duration of the customer's arrangement for financial hardship assistance; and
 - (f) advising the customer that they may seek a review if their financial hardship situation changes,
- within 2 business days after the customer and the provider agreed to the arrangement.

21 No charge for financial hardship assistance

A customer must not be charged by a provider:

- (a) to apply for, or be assessed for, financial hardship assistance;
- (b) to access an arrangement for financial hardship assistance; or
- (c) for the administration of such arrangements.

22 Review of arrangements for financial hardship assistance

- (1) A provider must review a customer's financial hardship arrangement if the customer informs the provider that their financial hardship situation has changed within 5 business days of being so informed.
- (2) Where a provider considers that a customer has not complied with an agreed term of an arrangement for financial hardship assistance, the provider must promptly contact the customer to discuss the matter and offer to review the arrangement.

Commented [CG51]: ACCAN considers that this clause should be altered to read:

'stating that the customer must, within 14 days, advise the provider of any material change in their circumstances during the term of the arrangement for financial hardship assistance, that would reasonably indicate that the customer is no longer in need of financial hardship assistance'

Consumers who are experiencing financial hardship may experience rapid changes in their financial situations and requiring consumers to promptly advise their provider if their situation changes is unrealistic given the possibility of a positive change being temporary. If a consumer is likely to experience or is experiencing DFV, this may be difficult for the consumer to promptly fulfill.

ACCAN would also like to query the consequences for the customer should they not promptly advise the provider of their situation.

ACCAN considers that a note should accompany this provision which indicates that customers must not be removed from a financial hardship arrangement if their situation has changed but they continue to be subject to other vulnerabilities, risk and safety factors.

This would ensure some leeway for customers experiencing low income or employment insecurity and allow them to remain on financial hardship assistance support.

Commented [CG52]: ACCAN queries if this extends to credit management action. Consumers should not have to pay for credit management action or be made to believe that there will be extra charges associated with credit action.

Commented [CG53]: ACCAN considers that during this financial hardship arrangement review period, customers should not be disconnected from their service.

Additionally, ACCAN considers that 22(2) should be altered to read:

"Where a provider considers that a customer has not complied with an agreed term of an arrangement for financial hardship assistance, and has evidence of this that it can provide to the customer, the provider must promptly contact the customer to discuss the matter and offer to review the arrangement."

Part 4—Credit Management Action

23 Minimum requirements – assessing credit management action

- (1) When considering whether to take credit management action against a customer, a provider must take all reasonable steps to determine if the customer is in financial hardship.
- (2) If a provider determines under subsection (1) or otherwise that a customer is in financial hardship, the provider must:
 - (a) offer the customer financial hardship assistance suitable for the customer's situation; and
 - (b) take all reasonable steps to keep the customer's telecommunications service connected, having regard to the essential nature of the service.

24 Minimum requirements – taking credit management action

When credit management action must not be taken

- (1) A provider must not take credit management action against a customer:
 - (a) while the customer is discussing options, or has made an application, for financial hardship assistance with the provider; or
 - (b) if the provider has an arrangement for financial hardship assistance on foot with the customer.

When credit management action can be taken

- (2) Subsection (1) does not apply if:
 - (a) the customer has not met their obligations under the arrangement for financial hardship assistance; and
 - (b) the provider has taken steps to review the arrangement under section 22; and
 - (c) the provider has taken reasonable steps to contact the customer, or the customer has contacted the provider, to discuss options for payment before taking credit management action; or
 - (d) the provider has a genuine reason to believe that the customer is unable or unwilling to pay their debts, to prevent a further increase in the debt owed by the customer; or
 - (e) the customer agrees that the financial hardship arrangement is unable to be completed; or
 - (f) the provider has been unable to contact the customer, despite taking reasonable steps to do so.
- (3) For the purpose of paragraphs (2)(c) and (f), a provider is taken to have taken reasonable steps if it has made at least 3 separate attempts to contact the customer, with each attempt on a separate business day, over a total period of not

Commented [CG54]: Credit default listings should be prohibited under this section, unless the provider has complied with all requirements of the Standard and the debt is over \$1,000.

ACCAN considers that this is reasonable considering that market participants do not have a full monopoly on the legitimate generation of telecommunications debts as some debts may incur as a result of mis-selling and as a result of economic abuse.

Commented [CG55]: ACCAN considers that a new provision should be inserted into 23(2) and it should read

23(2)c : 'keep the customer connected to the customer's telecommunications service or a more suitable cheaper service if the individual circumstances of the customer would mean that if they weren't connected that this could cause injury or harm to themselves or others'

Commented [CG56]: ACCAN considers that this provision should be amended to:

'take all reasonable steps to keep the customer's telecommunications service connected, having regard to the essential nature of the service and the individual circumstances of the customer.'

Commented [CG57]: ACCAN considers that a new section should be inserted into section 24 of 'Part 4—Credit Management Action' of the draft standard.

Commented [CG58]: ACCAN would put forward that customers who have indicated they are experiencing or are likely to experience DFV must not have credit management action taken against them whatsoever. ACCAN considers that consumers who are undergoing a review of their financial

Commented [CG59]: ACCAN considers that it should be made explicit that subsection (2) is not an exemption to subsection (1) in the case that a consumer has indicated that they are experiencing or are likely to experience DFV. In any circumstances where a consumer has indicated they are

Commented [CG60]: ACCAN suggests that 24(2)(a) be amended to:

'(a) the customer has not met their obligations under the arrangement for financial hardship assistance and has r

Commented [CG61]: This section should be amended to read:

the provider has taken reasonable steps to contact the customer to offer financial hardship and payment

Commented [CG62]: 24(2)(d) should be amended to:

'(d) the provider has a genuine reason to believe that the customer is unwilling to pay their debts, to prevent a further increase in the debt owed by the customer; and has eviden

Commented [CG63]: This clause should be replaced by:

'(e) the customer has been offered financial hardship assistance in accordance with the requirements of this standard (including the relevant payment plan

more than 10 calendar days, using at least 2 separate methods of communication, with at least one of those methods being in writing.

- (4) A communication made by a provider in writing pursuant to subsection (3) must state that the provider is contacting the customer because it proposes to take credit management action, which may include the restriction, suspension or disconnection of their telecommunications service.

- (5) Where it is open to take credit management action against a financial hardship customer under subsection (2), a provider must:

- (a) only use restriction, suspension or disconnection of the customer's telecommunications service as a measure of last resort;
- (b) give the customer a written notice:
 - (i) stating what credit management action is being taken;
 - (ii) stating when the credit management action is due to occur;
 - (iii) setting out the reasons for the provider's decision to take credit management action against a customer;
 - (iv) explaining all charges that may apply;
 - (v) identifying any impacts that the action may have on any other telecommunications services the provider provides to the customer; and
 - (vi) that includes the details of a contact point for the customer to make enquiries,

at least 10 business days before taking that action.

25 When debts cannot be sold

A provider must not sell a debt owed by a customer if either of the circumstances described in paragraph 24(1)(a) or (b) apply to the customer or the provider is reviewing the arrangement for financial hardship assistance under section 22.

Commented [CG64]: ACCAN considers that a new clause should be inserted in the draft standard under 24(3) which reads:

'if there are reasonable indications that the customer may be impacted by a form of vulnerability or disadvantage, clause 24 (3) will not apply, and instead the provider will need to take additional action to contact the customer, and maintain verifiable records of this action, and tailor communication methods to the customer's individual circumstances (including 'safe methods' agreed with the customer) on a case by case basis, taking into consideration the customers practical access to different methods of communication, before credit action can be taken'

There should be an additional note under this section requiring providers to develop 'tailored communications plan' policy to satisfy the requirements of this section, to also be applied when dealing with customers in financial hardship.

Commented [CG65]: ACCAN considers that an additional clause should be inserted to the following effect:

Before taking action to recover arrears from an affected customer or transferring affected customer debt to a third party debt collector, a retailer must take into account:

- (a) the potential impact of debt recovery action at that time on the affected customer; and
- (b) whether other persons are jointly or severally responsible for the product or service that resulted in the accumulation of those arrears.
- (c) the harm or injury it may cause to their customer, their family members, or other people

Commented [CG66]: The ACMA should consider adding an additional clause to this subsection which states:

'A provider must not commence legal action or take steps to restrict a customer's service due to non-payment if the amount owed by the customer is less than \$500'

Or in the alternative if the above is not adopted...

'a provider must not restrict, suspend or disconnect a financial hardship customers service for non-payment of a debt where the amount outstanding is less than \$500 or an amount set by ACMA and the customer has agreed with the provider to repay that amount'

Commented [CG67]: ACCAN considers that this provision should include a requirement for the provider to include the contact details of the TIO and relevant financial counselling services.

Commented [CG68]: As above, ACCAN considers that debts must not be sold in any circumstances where a consumer has made their telecommunications provider aware that they are experiencing or are likely to experience DFV.

Additionally, debts must not be sold until after 30 days of the customer being disconnected from their telecommunications service.

Part 5—Processes, training and monitoring

26 Processes for personnel

A provider must implement written processes and procedures for its personnel that are designed to ensure that the provider complies with its obligations under this industry standard.

27 Training for personnel

- (1) A provider must deliver, or arrange for a third party to deliver, financial hardship training to its personnel who deal directly with consumers that complies with subsection (2).
- (2) Financial hardship training must:
 - (a) be delivered to those personnel:
 - (i) within 3 months after the commencement of this industry standard, for those personnel who deal directly with consumers at that time; or
 - (ii) before they first start dealing directly with consumers, for personnel not covered by subparagraph (a)(i); and
 - (ii) every 12 months after they first receive training;
 - (b) instruct those personnel about the:
 - (i) requirements under Parts 1 to 6;
 - (ii) contents of the provider's financial hardship policy; and
 - (iii) processes that the provider has implemented to comply with section 26; and
 - (c) include an assessment component designed to test the knowledge of those personnel of the matters referred to in paragraph (b).

Commented [CG69]: ACCAN suggests that the standard require that providers ensure that they have adequate quantities of personnel to ensure that they can meet their responsibilities for financial hardship support under this standard.

Additionally, ACCAN considers that training should be delivered by a certified/specialist third party provider. Relevant staff should receive certified/specialist training in the area of domestic or family violence. This should include how to identify early if a customer may be at risk.

28 Monitoring and review

- (1) A provider must regularly monitor how its personnel interact with financial hardship customers to ensure that they understand the matters referred to in paragraph 27(2)(b).
- (2) A provider must review the effectiveness of its financial hardship training and make any relevant changes to ensure the training is fit for purpose every 12 months after the commencement day.

Commented [CG70]: ACCAN queries the frequency of "regular" in this context. ACCAN considers that this process should be conducted on a more frequent basis than the 12 monthly review of the financial hardship policy.

ACCAN considers that an additional clause should be added which states that:

'Providers must develop a financial hardship compliance and review policy to measure, monitor and independently evaluate performance and compliance with this standard to regularly report to ACMA '

Part 6—Record keeping

29 Requirements to keep records

- (1) A provider must keep records of its financial hardship arrangements with customers, including:
 - (a) the name and contact details of the customer who the arrangement is with;
 - (b) a unique reference number or some other unique identifier that will ensure the provider can subsequently identify the arrangement and its subject matter; and
 - (c) records of the dates of any oral communications with the customer and subject to subsection 16(3):
 - (i) copies of any correspondence sent by or to the customer regarding the arrangement;
 - (ii) a copy of their application;
 - (iii) any notice given under subsection 16(4);
 - (iv) a record of the customer's acceptance of the arrangement as referred to in section 19; and
 - (v) the notice given to the customer under section 20.
- (2) A provider must keep records:
 - (a) of credit management action it takes against a customer in accordance with subsection 24(2) and a copy of the notice given to the customer referred to in subsection 24(4) and paragraph 24(5)(b);
 - (b) that are sufficient to demonstrate its compliance with the requirements under Parts 2 to 5; and
 - (c) of the training it provides to personnel under section 27.
- (3) Where a provider keeps records under this section it must do so in a secure manner by protecting the information from unauthorised interference or access.

30 Record retention

- (1) Subject to subsection (2), a provider must:
 - (a) keep the records required to be kept under subsection 29(1) for at least 2 years after the arrangement for financial hardship assistance has been completed;
 - (b) keep the records required to be kept under subsection 29(2) for at least 2 years from the date of creating the record; and
 - (c) make those records available to the ACMA upon receiving a written request from the ACMA.
- (2) Where a provider requests information from a customer under subsection 16(3), it must:

Commented [CG71]: ACCAN considers that this section should be amended to recognise authorised representatives. Suggested amendment:

records of the dates of any oral communications with the customer **and/or their representative** and subject to subsection 16(3):

Commented [CG72]: This clause should be amended to:

(i) copies of any correspondence sent by or to the customer regarding the arrangement **and copies of all records and correspondence to verify any attempt by the provider to contact the customer to offer financial hardship assistance, including evidence of how the provider implemented any tailored communications plan outlining the customer's financial hardship arrangement or as required elsewhere in accordance with this standard'**

Commented [CG73]: This should be amended to:

'a copy of their application **and any supporting documentation provided by the customer**'.

Commented [CG74]: A new clause should be inserted below clause (c) which states:

'including a copy of the full audio recording of all phone conversations with the customer or their representative'

Commented [CG75]: ACCAN considers that these records also be made available to the customer and/or their authorised representative upon written request and should be communicated to the consumer in a manner of accessible formats as detailed above to the consumer within 10 business days.

- (a) only retain a copy or record of the information received from the customer for the period that it is required to complete that assessment; and
- (b) after the completion of that assessment, dispose of, or destroy, the copy or record of the information in a secure manner.

31 Privacy

Where a provider is not subject to the requirements of the *Privacy Act 1988*, it must ensure that personal information it collects in connection with an application for financial hardship assistance and an arrangement for financial hardship assistance is not disclosed to a third party except:

- (a) as required to manage a complaint to the TIO or the ACMA;
- (b) with the express consent of the consumer; or
- (c) where disclosure is otherwise required or authorised by law.

Commented [CG76]: ACCAN considers that a provision be added to section 31 that in circumstances where a consumer has indicated that they are experiencing or likely to experience DFV, that correspondence/information collected should not be disclosed to the primary account holder or end user of a service where that person is identified as the perpetrator.

Part 7—Conferral of functions and powers

32 Conferral of functions and powers on the TIO

This industry standard confers on the TIO the functions and powers of:

- (a) receiving;
 - (b) investigating;
 - (c) facilitating the resolution of;
 - (d) making determinations in relation to;
 - (e) giving directions in relation to; and
 - (f) reporting on;
- customer complaints about matters referred to in this industry standard.

DRAFT

Part 8—Transitional arrangements

33 Complaints about compliance with a relevant industry code relating to financial hardship

If:

- (a) a customer made a complaint to a provider, the TIO or the ACMA before the commencement day, alleging that the provider has not complied with a provision of a relevant industry code relating to financial hardship; and
- (b) immediately before the commencement day:
 - (i) the complaint has not been finally dealt with; and
 - (ii) the provision of the relevant industry code is in force;

then, on and after the commencement day, the complaint continues to have effect (and must be dealt with) as a complaint in respect of the relevant industry code.

34 Applications for financial hardship assistance

If:

- (a) a customer applied to a provider for financial hardship assistance before the commencement day; and
- (b) immediately before the commencement day, the application has not been finally dealt with;

then, on and after the commencement day, the application is taken to be (and must be dealt with as) an application made under a financial hardship policy established by the provider under section 7 of this industry standard.

Note: An effect of this section is that the provider is obliged to handle the application in accordance with this industry standard.

35 Arrangements for financial hardship assistance

(1) If:

- (a) a provider has entered into an arrangement with a customer for financial hardship assistance before the commencement day (the **original arrangement**); and
- (b) immediately before the commencement day, the original arrangement is still on foot;

the provider must, within the transition period:

- (c) review the original arrangement against the financial hardship policy established by the provider under section 7 of this industry standard;
- (d) make an offer in writing to the customer to replace the original arrangement with a new arrangement for financial hardship assistance that is consistent with the policy referred to in paragraph (c) (the **new arrangement**) (noting that if the customer does not accept the offer before the end of the acceptance period, the customer is taken to have declined the offer); and

(e) if the customer accepts the offer, transition the customer to the new arrangement.

(2) In this section:

acceptance period is a period of 10 business days starting on the date the offer is made under paragraph (1)(d).

transition period is a period of 20 business days starting on the commencement day.

Commented [CG77]: ACCAN considers this arrangement suitable provided that telecommunications providers communicate effectively with customers the replacement of the original arrangement with a new arrangement. ACCAN considers that this clause should include a note which states that:

'The offer in writing must be made by SMS, email, post and also via 3 verifiable phone attempts over 3 separate days if the customer has not responded to notifications through the primary or elected methods of communication chosen by the consumer.'

Commented [CG78]: ACCAN considers this acceptance period too short to adequately reflect the capacities of consumers. Acceptance period in this section should read:

acceptance period is a period of **3 months** starting on the date the offer is made under paragraph (1)(d).

DRAFT