

Confidential and not for publication

Vocus Submission

ACMA's proposed telco industry rules for outages

About Vocus

Vocus, Australia's specialist fibre and network solutions provider, owns and operates c. 26,000km of secure, high-capacity fibre connecting all Australian mainland capitals with New Zealand, Asia, and the USA. Vocus' network includes the Australia Singapore Cable (ASC) from Perth to Singapore and the North West Cable System (NWCS) from Darwin to Port Hedland, which together form the combined Darwin-Jakarta-Singapore Cable system (DJSC) with landing points in Darwin, Port Hedland, Perth, Christmas Island, Indonesia and Singapore.

Vocus owns a portfolio of well recognised brands catering to enterprise, government, wholesale, small business and residential customers across Australia. For more information, visit vocus.com.au.

Executive Summary

Vocus welcomes the opportunity to respond to the Australia Communications Media Authority's (ACMA) consultation on the proposed telco industry rules for outages including both the proposed amendments to the Telecommunications (Emergency Call Service) Determination 2019 (ECS Determination) and the proposed amendments to the Telecommunications (Customer Communications for Outages) Industry Standard 2024.

As a telecommunications business, Vocus does not own and operate any mobile network. From a mobile services standpoint, we are a mobile virtual network operator (MVNO) utilising Optus' mobile network to resell mobile services via our Consumer brands Dodo and iPrimus, our small business brand Commander, as well as via our Enterprise and Government business (for 4G backup services) and our Wholesale business. From a broadband services standpoint, whilst we own and operate our own fibre network and are therefore a fibre network operator (FNO), we also utilise the nbn broadband network to resell broadband services to our wholesale customers (in our capacity as a B2B carrier) and to our retail customers (in our capacity as a B2C carriage service provider/retail service provider (RSP)). As such, from a carriage service provider (MVNO/RSP)'s perspective, there are many technical limitations upon our abilities to comply with the proposed obligations.

Additionally, and in light of recent weather events, Vocus submits that natural disasters continue to be exempt given their fluid and changing nature. During these types of disasters, communities often rely on official sources of communication who are providing updates across all forms of critical infrastructure impacted (i.e. power which is often the main cause of telco outages during natural disasters). While we acknowledge the negative impact on consumers, businesses, and Government agencies, the fact remains that telecommunications carriers have the strongest possible incentive to make their networks as robust as possible – the threat of losing customers to another operator. Consideration of any new regulatory obligations to deal with potential future outages should be mindful of the fact that this powerful commercial incentive is likely to drive better outcomes for consumers than new regulations.

Questions relevant for comment

Question 1: Is the proposed definition of significant local outage workable? If not, please provide suggested wording for an alternative definition giving reasons?

Question 2: Does the definition adequately capture outages that are lesser in scale than major outages, but have a significant impact on local communities in the areas that may have lower levels of access to alternative telecommunications networks?

As previously outlined in our October 2024 response to the ACMA's Consultation Paper – Proposal to make the Telecommunications (Customer Communications for Outages) Industry Standard 2024 both the definitions of “major outage” and “significant local outage” (question 2 and 3) are not appropriate as they are based on two main thresholds which are to be met:

- a) Affected services threshold – specified number of affected services on a carrier or carriage service provider's network (under both definitions), or all services provided by a carriage service provider in a State or Territory being affected (under the “major outage” definition); and
- b) Duration threshold – actual or estimated duration of an outage.

Whilst the intention is to ensure carriers and carriage service providers can easily and unequivocally apply the definitions using the specified thresholds above so that appropriate management and customer communication processes can be initiated in a timely manner, Vocus submits that the use of such thresholds in both the definitions would not be appropriate and poses challenges. The “affected services” threshold may also be difficult to ascertain, given the nature of outages can sometimes be unknown for a period of time. With the intention to ensure appropriate notifications to customers and restoring the network, service providers may spend a lot of time calculating impacted/affected services rather than restoring.

The reason for this is because, at the initial stages of diagnosis of an outage, the duration and the number of affected services of an outage cannot be pre-determined until after initial troubleshooting has begun and a plan for rectification has been identified. This process of diagnosis, troubleshooting, rectification planning and outage rectification can take anywhere from 30 minutes to several days. For this reason, Vocus recommends that the affected services threshold and the duration threshold should be removed from both the definitions.

Vocus recommends instead of using the above thresholds, an alternative approach is to leverage, streamline, and unify existing crisis management practices which are already in place and familiar to the major infrastructure providers within the industry.

Additionally, it should be noted that Vocus does not own and operate any mobile network. From a mobile services standpoint, we are a mobile virtual network operator (MVNO) utilising Optus' mobile network to resell mobile services via our Consumer brands Dodo and iPrimus, our small business brand Commander, as well as via our Enterprise and Government business (for 4G backup services) and our Wholesale business. Therefore, Optus is therefore in a better position (as the underlying infrastructure owner) to determine and provide the requisite notice (which we can then pass-on)

From a broadband services standpoint, whilst we own and operate our own fibre network and are therefore a fibre network operator (FNO), we also utilise the nbn broadband network to resell broadband services to our wholesale customers (in our capacity as a B2B carrier) and to our retail customers (in our capacity as a B2C carriage service provider/retail service provider

(RSP)). As such, from a carriage service provider (MVNO/RSP)'s perspective, there are many technical limitations upon our abilities to comply with the proposed obligations.

In addition, from an upstream carrier/wholesaler's perspective, Vocus would not have visibility of this end-customer information and relationship because it would be our B2B customer (another carriage service provider) who would have the contractual relationship with their end customers and, therefore, the customer information. Without this visibility, it would be a major issue for an upstream carrier/wholesaler to determine whether an outage meets the affected services thresholds under the definitions.

In response to the definition of "significant local outage", the reference to "local" in the naming convention of the definition implies that the definition is restricted to a particular geographical area. Vocus notes that the definition of "significant local outage" does not make any reference, and indeed does not restrict its application, to particular geographical areas. Vocus submits that the ACMA should consider removing any references to "local" in the naming convention of the definition to avoid any potential for ambiguities in the application of this definition.

Question 3: Are there concerns about the imposition of requirements on carriers and CSPs in relation to outages caused by natural disasters? If yes, please explain.

Question 4: Can you suggest an alternative way to manage communications with customers and the public during outages caused by natural disasters so that the objectives of the direction are met?

Yes. Outages caused by natural disasters should be excluded. Vocus submits it is not necessary to impose any new mandatory communications requirements on carriers in the event of an outage caused by natural disasters, recognising that such events are fast-paced, fluid, and often occur in a fog of conflicting information that can be difficult to verify in a timely manner. During such events, communities rely on official sources for information on ongoing actions. Including additional communications may cause information overload without adding value.

Vocus continues to enhance its Incident Management Plans, Crisis Management plan, Business Continuity Plans and participates in exercises and test scenarios with other carriers. Vocus also engages with the relevant State and Federal Government agencies during times of natural disasters. While operators can do their utmost to prepare for outages and mitigate risk, there is no way to foresee the specific circumstances of every potential event, which would make it difficult to implement any mandatory requirement for communications to customers during an outage.

Further, if the intention is to create a telecommunications ecosystem whereby all relevant parties are interconnected with the necessary information of an outage, then the requirement to have one or more RSPs/MVNOs updating each other will ultimately lead to a decentralisation of communication, causing smaller carriage service providers/RSPs/MVNOs to dilute and confuse communication within the industry and, importantly, with end customers.

The net effect of this would be to cause further panic, confusion and distress to end customers, thereby negating the benefits that the objectives anticipate and seek to achieve for end customers. Regarding the management of major and significant local outages, an alternative approach to be applied to RSPs and MVNOs instead may be to require:

- a) Major outages – RSPs/MVNOs to provide 2-hourly updates, and MNOs/FNOs to provide the 24/7 near to live customer assistance; and

- b) Significant local outages – RSPs/MVNOs to provide 4 to 6-hourly updates, and MNOs/FNOs to provide the 24/7 near to live customer assistance.

This would avoid the undue burden upon RSPs/MVNOs and the increase in costs to businesses and end customers, however, would still achieve the same objectives whilst addressing the customer issues, particularly around major outages.

Vocus also submits that the competitive nature of the telecommunications market also provides a strong incentive for operators to communicate early and widely during outages. Notwithstanding any criticism of Optus' actions during the most recent outage, Vocus submits that there is a strong commercial incentive for carriers to communicate clearly with customers via whatever means are available during an outage (i.e. mainstream and social media channels).

Question 5: For carriers and carriage service providers, what are the likely costs and benefits of implementation for your organisation? (Please provide specific cost estimates in your response.) Are there alternative ways to achieve the objectives of the direction that would be consistent with its terms and provide for lesser costs and/or greater benefits?

As previously highlighted, Vocus does not own and operate any mobile network. From a mobile services standpoint, we are a mobile virtual network operator (MVNO) utilising Optus' mobile network to resell mobile services via our Consumer brands Dodo and iPrimus, our small business brand Commander, as well as via our Enterprise and Government business (for 4G backup services) and our Wholesale business.

From a broadband services standpoint, whilst we own and operate our own fibre network and are therefore a fibre network operator (FNO), we also utilise the nbn broadband network to resell broadband services to our wholesale customers (in our capacity as a B2B carrier) and to our retail customers (in our capacity as a B2C carriage service provider/retail service provider (RSP)). As such, from a carriage service provider (MVNO/RSP)'s perspective, there are many technical limitations upon our abilities to comply with the proposed obligations.

Additionally, costs are commercially sensitive information. From a financial perspective, the need to be adequately staffed 24/7 would necessarily drive the increase in costs to business and, in turn, to the end customer; and from a regulatory risk versus reward perspective, providers who rely upon their MNOs and FNOs to provide them with the necessary information about an outage would not be achieving any real purpose or benefit by having 24/7 capabilities to simply relay the same information from their MNOs and FNOs every 2 hours.

Question 9: Are there any additional relevant examples of matters that are beyond the control of the provider that may materially and adversely affect the provider's technical ability to meet the proposed new requirements?

If the objectives of the direction and the Standard are to provide end customers with:

- (a) timely and up-to-date information; and
- (b) available information on the status, scale, impact, cause, and estimated timing for rectification of an outage,

then such information should rightly come directly from a mobile network operator (MNO) and FNO, given that such information of this nature is largely determined by the MNO/FNO who own and operate their networks and infrastructure. As such, a carriage service provider (MVNO/RSP) such as Vocus would not have the visibility or capability to provide its end customers with timely, up-to-date and relevant information, as required under the Standard and direction.

More importantly, between a carrier and a carriage service provider, there are considerable differences and varying levels of obligations, resourcing, relationships and end-customer impacts. Therefore, taking a general and broad-handed approach by imposing the same set of requirements upon both a carrier and carriage service provider, in fact, neglects to give due consideration to the differences in the nature of the relationship that a carrier would have with their customers versus the relationship that a carriage service provider would have with theirs.

In this regard, Vocus submits that consideration should be given to whether the same requirements are relevant and beneficial for providers who rely upon their MNOs and FNOs to provide them with the necessary outage information.

Carriage service providers are required to notify their customers (i.e. other carriage service providers) when they reasonably suspect that there is (or will be) an outage, based on the limited information that would be available to carriage service providers as they are reliant upon information provided to it by the MNO/FNO. Vocus believes that there would not only be a high risk of over-reporting or under-reporting, but also a reporting of potentially inaccurate and incomplete information to end customers because of a lack of accurate and up-to-date information.

This could have the potential for unintended consequences ultimately failing to achieve what the direction and Standard have set out to achieve; and (b) Vocus, as an upstream wholesaler/carrier, would know which of their B2B customers (other carriage service providers) are affected. However, a wholesaler/carrier would not have any visibility of end-customer information as the carriage service provider would be responsible for their end customers given the contractual relationship is between the carriage service provider and the end customer.

Separating standards with different requirements upon carriers and carriage service providers would be more suitable as this approach would more appropriately address the varying levels of obligations, resourcing, relationships, technical challenges and end-user impacts, which are particular to carriers and carriage service providers; thereby better fulfilling the objectives and achieving better compliance outcomes.

Question 15: Is 30 days an appropriate timeframe to prepare a report setting out the information in subsection 79(2)? If not, what would be an appropriate timeframe? Please explain your answer.

A multi-step reporting process is likely more appropriate to ensure that both government and industry can react in the best interests of the public in the immediate, medium and longer term. An Initial Report: Provided with a formal response from the impacted carrier within 30 days, detailing the initial impacts and responses. This ensures immediate concerns are addressed promptly and that the industry is appropriately informed.

Secondary Report(s): Submit additional report(s) in the subsequent 90 days, detailing further actions, lessons learned, and additional information. This allows for a comprehensive analysis and consultation with the department for any necessary extensions.

Question 17: Is 6 months prior to the proposed change an appropriate amount of time to submit the management plan to the ACMA? If not, please specify a timeframe and provide reasons why

The regulation of significant changes should primarily be managed by the industry and its partners, with the ACMA focusing on the standards to which the industry conforms. This includes how each party notifies a change, the specific scope of included changes, and the requirements for when and how providers must do so.

Enforcing a 6-month lead time may hinder innovation, increase costs, and reduce market movement, potentially making services less resilient, especially when immediate changes are required. In instances where network providers agree on a commonly understood impact, the ACMA should be informed of the change date. Change management procedures common in most ICT businesses require the change to ensure that downstream businesses are aware of the change impacts. For this reason, industry could formalise a mechanism to identify network elements that carry critical services for emergency services.

The solution should not include impacts to individual services but should focus on core infrastructure or the carriage of multiple services. This is particularly important for "Leased Services," where one network leases components from another to support a service. Any network carrier intending to provide a call termination service over a leased network should specify their intention, including the requirements and specifications for the service, and adhere to an industry standard on acceptable service types.

A "significant change" will have different interpretations unless clearly defined in terms of impact, scope, planning, and innovation. The 6-month timeframe could potentially reduce innovation within the industry. Therefore, it would be more practical for such changes to be informed and actioned within the industry.

Other comments

Vocus submits that the Optus outage should prompt consideration of multi-carrier mobile roaming requirements (beyond just Triple Zero calls) in limited circumstances, such as declared emergencies and natural disasters. While in this case the outage did not occur during a natural disaster and so would be unlikely to have met a threshold for an emergency roaming requirement, there is an opportunity to investigate how such a requirement could be enabled to prevent Australians being offline during emergencies.

It would not be reasonable to expect that, in the event of a major outage, all traffic from the impacted carrier could be automatically transferred to one or two available alternative networks. This immediate surge of traffic would likely result in, at best, the degradation of services on the alternative networks or, at worst, the total failure of those alternative networks as well. MNOs should not be expected to build sufficient redundant capacity in their networks to account for another MNO's traffic in the event of an outage, which would increase capital and operational costs – and which would inevitably flow through to consumer prices.

Therefore, consideration should be given to which a mandatory multi-carrier mobile roaming requirement should be activated, for example:

- When the Minister (or other responsible entity) formally declares a state of emergency (i.e. during a bushfire, flood, or other natural disaster or national security incident),
- That any roaming requirement is limited to the geographic area of the declared emergency,
- That any roaming requirement is limited in duration to address the immediate communications needs of citizens during the emergency (but to prevent such arrangements from becoming embedded for a longer term, in preference for normal commercial arrangements to be put in place instead),
- That regulatory arrangements are in place to allow any temporary/deployable network infrastructure to rapidly access required spectrum to enable communications for the duration of the emergency,
- If a given operator's network is taken offline during an emergency, that unused spectrum be made available to alternative operators and/or temporary/deployable network operators to maintain availability of coverage on a neutral-host basis,
- That any publicly-funded network infrastructure include permanent multi-carrier roaming requirements as part of the program guidelines, recognising that public funds should be utilised for the broader public good and not that of any individual operator.

For any further information please contact:

Ebony Aitken, Vocus GM Government and Regulatory Affairs

Ebony.Aitken@vocus.com.au or [REDACTED]