

Complaint Handling Process

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1 Introduction

This document explains our complaint handling process (**CHP**) for our past, current and prospective customers (we'll call them *all customers*) who are covered by the *Telecommunications (Consumer Complaints Handling) Industry Standard 2018 (Complaints Standard)*.

It outlines how we handle complaints, and is intended especially for our customers, our own staff, other telcos involved in our supply chain, and other interested parties, and it includes the minimum requirements for consumer complaints handling as required by the Complaints Standard.

2 Accessing this Complaint Handling Process

- (a) This CHP is available on our website.
- (b) There is a link on our home page to information about how to contact us to make a complaint or enquiry, and it is clear that the link provides information you can use to make a complaint.
- (c) We'll also make this CHP available to you:
 - if you ask for it; or
 - as soon as practicable after you inform us that you wish to make a complaint.

Note to staff: If you're dealing directly with customers, you must give them access to this CHP as described above.

3 Who this CHP applies to

This CHP applies to you if you are:

- (a) an individual customer who acquires a telecommunications product mainly for personal or domestic use and not for resale; or
- (b) a business or non-profit that, at the time of contract:
 - (i) acquires a telecommunications product not for resale; and
 - (ii) doesn't have a genuine and reasonable opportunity to negotiate the terms; and
 - (iii) has an (anticipated) annual spend with us of \$20,000 or less.

4 Some special terms

- (a) 'ACMA' means Australian Communications and Media Authority—see clause 39(d).
- (b) 'Financial hardship' means a situation where:
 - (i) you can't discharge your financial obligations to us, due to illness, unemployment, being the victim of domestic or family violence, or other reasonable temporary or ongoing cause; and

- (ii) you believe that you will be able to discharge those obligations if the payment or other arrangements relating to the supply of telecommunications products by us to you are changed.
- (c) 'Personal information' means the same as in the *Privacy Act 1988*.
- (d) 'Solution' means a way to deal with a complaint – not necessarily the way you want.
- (e) 'Telecommunications product' means the same as in the Complaints Standard – it covers most telco services and associated goods we supply.
- (f) 'TIO' means Telecommunications Industry Ombudsman – see clause 29.
- (g) 'Working day' means a day that is not a Saturday, Sunday or gazetted public holiday in the location of your premises or principal place of business.

5 Representatives

- (a) You may choose to appoint a 'Representative' ie either:
 - (i) an **Authorised Representative** – who is a person who has authority from you to deal with us on your behalf as your authorised agent; or
 - (ii) an **Advocate** – who is a person nominated on your behalf to deal with us on your behalf, but does not include an Authorised Representative or a person who has authority to access your account information from us.
- (b) The forms and procedures for nominating a Representative are on our website.
- (c) You can nominate a Representative to make and handle a complaint for you.

6 What's a 'complaint'?

Any of the following counts as a complaint:

- (a) if you express dissatisfaction about our products or services; or
- (b) if you express dissatisfaction about our complaint handling process –

and you tell us, or imply, that you expect a response.

But if you make an initial call to request information, or to request support, or to report a fault or service difficulty, we won't treat it as a complaint unless you ask us to.

And if there was legal action already underway, the subject of that wouldn't be treated as a complaint.

Notes to staff:

- (a) If a dissatisfied customer contacts us and you're not clear whether they want to record a complaint – you must ask them, to clarify.
- (b) You must also help a dissatisfied customer to formulate their complaint, and to lodge it, and to progress it.
- (c) To assist staff to help customers with special needs or disabilities, we've included some guidance steps in clause 41.
- (d) To assist staff to help customers from non-English backgrounds, we've included some guidance steps in clause 42.
- (e) To assist staff to help customers suffering financial hardship, we've included some guidance steps in 43.

7 When is a complaint 'resolved'?

A complaint counts as 'resolved' when:

- (a) we and you have agreed on a solution, and we have fully implemented it; or
- (b) you escalate it to the TIO; or
- (c) all internal resolution processes set out in this CHP have been completed and:
 - (i) you and we have not agreed on a solution; and
 - (ii) we have advised you about your options for external dispute resolution, including the TIO – see clauses 29 and 39; or
- (d) we are otherwise entitled to close the complaint under the Complaint Closing Rules in clause 27.

We will confirm that your complaint has been resolved as soon as practicable after we complete our investigation of it, and we'll confirm that in writing, within five working days after you ask us to.

8 Our complaints goal

As a customer, you have the right to make a complaint. Our goal is to keep our customers satisfied, and that means as few complaints as possible, and that any complaints that do arise are dealt with openly, fairly and promptly.

To support that goal:

- (a) Our complaints process is approved by our Chief Executive Officer (or equivalent), who is responsible for ensuring its implementation, operation and compliance in accordance with the Complaints Standard.
- (b) Our complaints process is managed by a senior manager who must maintain the effective and efficient operation of the process in accordance with the Complaints Standard.
- (c) Our complaints process is focused on your needs and expectations and is designed to be easy to understand and use.

9 How and when you can make a complaint

You can make a complaint:

How	When
<ul style="list-style-type: none"> By letter to Level 27, Rialto South Tower, 525 Collins Street Melbourne VIC, 3000 	
<ul style="list-style-type: none"> On our website at http://flexcloudcom.lmdev.com. 	At any time
<ul style="list-style-type: none"> Call 1300 656 110 	8:30am to 5:00pm Monday to Friday
<ul style="list-style-type: none"> Email info@flexcloud.com.au 	At any time

10 How and when you can monitor the progress of a complaint

You can monitor complaint progress:

How	When
<ul style="list-style-type: none"> Call 1300 656 110 and quote your Complaint Number 	8:30 am to 5:00 pm Monday to Friday
<ul style="list-style-type: none"> Visit your customer account page 	At any time

11 If you need assistance

We will assist you to formulate, lodge and progress a complaint if you need help, especially including because of disability, hardship and difficulties with English. Just let our Customer Care officer know you want help and, if you can't tell us in that way:

- (a) write or email your request to an address in clause 9; or
- (b) contact us through your Representative – see clause 5; or
- (c) contact us via the National Relay Service on 133 677; or
- (d) contact us via the Translating & Interpreting Service on 131 450.

12 Receiving your complaint

We'll receive your complaint through any of the contact points in paragraph 9.

13 Our complaint management steps

We will use our best efforts to resolve your complaint on first contact. If we can't do that, the steps in the following clauses apply.

14 Acknowledgement of your complaint

- (a) If you make a complaint in person or by telephone to a Customer Care officer, we'll acknowledge it immediately.

- (b) If you make a complaint by email, or through our website or another customer service website we approve, or by paper post, or by a telephone message recording system, we'll acknowledge it within two working days.
- (c) When we acknowledge your complaint, we'll allocate it a unique reference number or take another measure so we can later identify the complaint and its subject matter (**Complaint Number**), and advise you of the Complaint Number.

15 Initial assessment of your complaint

On initial assessment, a Customer Care officer will:

- (a) identify and flag it if it is an urgent complaint – see clause 16;
- (b) categorise it according to our standard categories in clause 34;
- (c) identify and flag complaints about billing errors – see clause 23;
- (d) assess whether it can be resolved without further investigation; and if so skip to:
 - (i) clause 21 (for non-urgent complaints) or
 - (ii) clause 22 (for urgent complaints).

16 How we identify urgent complaints

Your complaint is identified as urgent if:

- (a) you have applied for or have been accepted as being in financial hardship under our Financial Hardship Policy and the subject matter of your complaint can reasonably be presumed to directly contribute to or aggravate your financial hardship; or
- (b) disconnection of your service is imminent or has occurred and where due process has not been followed; or
- (c) it relates to a service for which you receive Priority Assistance under the *Priority Assistance for Life Threatening Medical Conditions Code*.

Our Customer Care officers are trained to watch for these factors and must flag a complaint as urgent if any of them are seen to apply.

17 Internal prioritisation process

We are flexible in the way we prioritise complaint processing, because special circumstances can apply. But in normal circumstances:

- (a) Urgent complaints have highest priority.
- (b) Complaints involving services to customers with significant health problems, or the care of young children or who are in remote locations or who are old-aged are prioritised next.
- (c) Complaints that are approaching, or have exceeded maximum response times are prioritised next.

We can often only know about these, or other, important factors if you tell us. You can alert us using any of the contact channels through which you can lodge a complaint.

18 Concerns about applicable response time

If you notify us that you are not satisfied with the response times that apply to the handling or management of your complaint, within five working days we'll advise you about:

- (a) our internal prioritisation process – see clause 17;
- (b) our internal escalation process – see clause 28; and
- (c) options for external dispute resolution, including the TIO – see clauses 29 and 39.

19 Request for urgency

If you reasonably notify us that you want your complaint to be assessed and treated as urgent, within two working days we'll advise you about:

- (a) our internal prioritisation process – see clause 17;
- (b) our internal escalation process – see clause 28; and
- (c) options for external dispute resolution, including the TIO – see clauses 29 and 39.

20 Investigation of your complaint

In investigating a complaint, a Customer Care officer will:

- (a) make any relevant enquiries of you, your Authorised Representative or Advocate, or our systems or other staff, or of any other telcos involved in our supply chain, and other interested parties;
- (b) investigate the complaint suitably for its seriousness;
- (c) fairly and carefully consider the merits of the complaint;
- (d) focus on finding the optimal solution for you and the situation;
- (e) seek guidance from a manager if necessary; and
- (f) keep in mind our obligations under the Complaints Standard and this document.

21 Our response and proposed solution

- (a) We'll offer a solution for your complaint within 15 working days of receiving it, unless a delay prevents that – see clause 30.
- (b) We'll confirm that offer in writing, within five working days after you ask us to.

22 Handling urgent complaints & how it's different from ordinary complaints,

An urgent complaint will be handled generally in accordance with this CHP, but within two working days of receiving your urgent complaint, we will:

- (a) offer a solution; and
- (b) if you accept that solution, action it –

(unless a delay prevents that – see clause 30) and we'll confirm that in writing, within five working days after you ask us to.

23 Complaints about billing errors

If you make a complaint during a billing period about a billing error, we will resolve it by the end of the next billing period.

24 Solutions

- (a) The solution we offer will be tailored to you so that, as far as practicable, it addresses the main cause of the complaint, and your individual circumstances.
- (b) Where a complaint is indicative of a broader problem or systemic issue, we'll seek to resolve the main cause of that problem or issue.
- (c) We aren't required to action that proposed solution unless and until you accept it. If you do accept our proposed resolution, we are allowed a period of time to action it – see clause 26.

25 Communicating our decision about the complaint

- (a) We'll notify you of our decision about your complaint as soon as practicable after we complete our investigation, including offering any solution in accordance with clause 21.
- (b) We'll communicate this information by email or text message or by phone.
- (c) We'll confirm it in writing, within five working days after you ask us to.

26 Implementing an agreed solution

We'll fully action a solution within ten working days after you agree to it, unless:

- (a) we and you agree otherwise; or
- (b) you agreed to do something to facilitate the solution by a certain time, and you failed to do so; or
- (c) it's an urgent complaint and clause 22 applies.

27 Closing a complaint – (Complaint Closing Rules)

We may close your complaint in our complaints system if:

- (a) the complaint is resolved and there is nothing left for us to do; or
- (b) you consent; or
- (c) we have completed the Unsatisfactory Outcome Procedure in clause 31; or
- (d) we have completed the Unreasonable Complaint Procedure in clause 32; or
- (e) we have completed the Lost Contact Procedure in clause 33.

28 Internal escalation process

- (a) Your complaint will be escalated and managed accordingly if you reasonably request it.
- (b) You can request escalation using any of the contact channels through which you can lodge a complaint.
- (c) Internal escalation and management may not accelerate resolution if the complaint is not urgent and its processing already meets the applicable standards and is within the permitted maximum response time/s.
- (d) A complaint will be automatically escalated if:
 - (i) a maximum response time has been exceeded;
 - (ii) it becomes urgent; or
 - (iii) you notify us of another factor that increases the seriousness of your complaint or the need for expedited resolution.
- (e) Each escalated complaint will be referred to a more senior Customer Care officer, who will assess the reason/s for the escalation and the best way to respond to them, and direct action accordingly.

29 Process where a complaint is referred to the TIO for external resolution

- (a) You may escalate a complaint to the TIO after we have been given a reasonable opportunity to resolve it.
- (b) The TIO can be contacted:
 - (i) through its website at www.tio.com.au;
 - (ii) by phone on 1800 062 058;
 - (iii) by writing to PO Box 276, Collins Street West Vic 8007;
 - (iv) through the National Relay Service – call on 1800 555 677 then ask for 1800 062 058 ;
 - (v) by faxing a consumer complaint form (see [www.tio.com.au/ data/assets/pdf_file/0006/9195/TIO-consumer-](http://www.tio.com.au/data/assets/pdf_file/0006/9195/TIO-consumer-)

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- complaint-form-Feb-2016.pdf) to 1800 630 614; or
- (vi) by emailing the consumer complaint form to tio@tio.com.au.
- (c) The TIO may accept your complaint if:
- (i) it is about your landline telephone, mobile or internet service, damage to your property or telecommunications equipment; and
 - (ii) you have already tried to contact us to resolve your complaint with us; and
 - (iii) you the account holder or have you been authorised to deal with the matter by the account holder; and
 - (iv) your complaint less than two years old (or between two and six years old, if you have a good reason for not making it before).
- (d) If TIO accepts your complaint, it will process it according to its current procedures.

30 If delays occur or are anticipated

- (a) If there's a delay in the timeline for managing or handling your complaint, we'll inform you as soon as possible after we become aware of it.
- (b) If we do not reasonably believe we can resolve your complaint within 15 working days (or two working days for an urgent complaint) we will advise you within those periods:
 - (i) why there is a delay;
 - (ii) the new timeframe that will apply; and
 - (iii) if we expect resolution to require more than ten more working days, of your options for external dispute resolution including the TIO (except if the delay is because of a notified mass outage of service).

31 Unsatisfactory Outcome Procedure

- (a) If you:
 - (i) notify us that you are not satisfied with the progress of your complaint; or
 - (ii) notify us that you are not satisfied with the outcome of your complaint; or
 - (iii) enquire about your options to pursue your complaint further –then we'll advise you about:
 - (iv) our internal escalation process – see clause 28 (to the extent that you haven't already availed yourself of it); and

- (v) your options for external dispute resolution, including the TIO – see clauses 29 and 39.
- (b) Unless you avail yourself of any remaining internal escalation process, we may then close your complaint under the Complaint Closing Rules.

32 Unreasonable Complaint Procedure

- (a) If we consider that:
 - (i) we can do nothing more to resolve your complaint or assist you; and
 - (ii) your behaviour or complaint is frivolous or vexatious – we may decide not to deal further with your complaint.
We won't do that without careful consideration, and appropriate internal escalation, and acting reasonably.
- (b) Within five working days of such a decision, we'll advise you of the reasons for our decision and your options for external dispute resolution, including the TIO – see clauses 29 and 39.
- (c) After that:
 - (i) we may then close your complaint under the Complaint Closing Rules; and
 - (ii) we reserve the right not to accept any further complaints from you on the same or similar issues, except as a part of an external dispute resolution process.
- (d) Nonetheless, if you ask for written confirmation of our reasons and your options for external resolution, we'll provide them within five working days – see clauses 29 and 39.

33 Lost Contact Procedure

- (a) If we can't contact you to discuss your complaint or offer a solution, we'll write to you:
 - (i) advising we couldn't contact you;
 - (ii) detailing our contact attempts; and
 - (iii) inviting you to contact us to discuss the complaint within a specified period (of at least ten working days).
- (b) Unless you contact us to discuss the complaint within that period, we may then close your complaint under the Complaint Closing Rules.

34 Classifying complaints

- (a) Complaints will be categorised as follows:
 - (i) NBN

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- (A) Billing & Payment
- (B) Connection
- (C) Contracts
- (D) Credit management
- (E) Customer service
- (F) Faults
- (G) Privacy
- (H) Transfer
- (ii) Other internet
 - (A) Billing & Payment
 - (B) Connection
 - (C) Contracts
 - (D) Credit management
 - (E) Customer service
 - (F) Faults
 - (G) Privacy
 - (H) Transfer
- (iii) Landline
 - (A) Billing & Payment
 - (B) Connection
 - (C) Contracts
 - (D) Credit management
 - (E) Customer service
 - (F) Faults
 - (G) Privacy
 - (H) Transfer
- (iv) Mobile
 - (A) Billing & Payment
 - (B) Connection
 - (C) Contracts
 - (D) Credit management
 - (E) Customer service
 - (F) Faults
 - (G) Privacy
 - (H) Transfer

Each category has been titled so as to clearly describe the kinds of complaints covered. Staff must apply the categories carefully and

appropriately.

- (b) The Customer Care officer who first deals with a complaint after we receive it must classify it.
- (c) Where, in the course of dealing with a complaint, a Customer Care officer recognises that a complaint should be classified by reference to alternative or additional categories, they must amend the classification accordingly and make a brief note of the amendment/s and reasons.

35 Restriction on legal proceedings

We will not commence legal proceedings against you that has the same subject matter as a complaint:

- (a) while the complaint is being handled internally; or
- (b) within seven working days after you are advised of the outcome of the complaint; or
- (c) while the complaint is being investigated by the TIO.

36 Charges for using our complaints process

Our complaints process is free to use.

37 Limit on cancelling service

If:

- (a) you make a complaint; and
- (b) you weren't able to resolve it directly with us; and
- (c) you pursue external dispute resolution –

we will not cancel your service for those reasons alone.

38 Credit management action suspended

We will not take credit management action over a disputed amount if you have made a complaint and we know:

- (a) it has not been resolved to your satisfaction; and
- (b) it is being investigated by us or the TIO or some other recognised third party.

39 External dispute resolution

The following external dispute resolution bodies may be able to assist with your complaint, but may require that you first attempt to resolve it directly with us:

- (a) the Telecommunications Industry Ombudsman (**TIO**) – see clause 29;
- (b) the Office of Fair Trading in Your State or Territory – visit your State

or Territory consumer website;

- (c) for Australian Consumer Law matters, the Australian Consumer and Competition Commission (**ACCC**) – www.accc.gov.au;
- (d) for Telecommunications Consumer Protections Code matters, the Australian Communications & Media Authority (**ACMA**) – www.acma.gov.au;
- (e) for privacy issues, the Office of the Australian Information Commissioner (**OAIC**) – www.oaic.gov.au.

40 Further requirements for our staff

We will ensure that our staff who deal directly with customers and/or with complaints:

- (a) are given access to a copy of this CHP;
- (b) understand the requirements for consumer complaints handling under the Complaints Standard and their roles and responsibilities under this CHP;
- (c) understand what remedies are available to assist with the resolution of a complaint;
- (d) manage and resolve complaints in an effective and efficient manner in accordance with the Complaints Standard;
- (e) treat you with fairness and courtesy when you make a complaint;
- (f) can identify and record a complaint; and
- (g) can classify complaints in accordance with clause 34.

41 Guidance: helping customers with special needs or disabilities

TIO has published a comprehensive Position Statement on *Responding to consumers with different needs* (including special needs or disabilities):

<https://www.tio.com.au/about-us/position-statements/responding-to-consumers-with-different-needs>

A copy is attached to this CHP as Annexure 1.

We endorse this Position Statement and recommend that all Customer Care officers and other staff involved with complaint handling read and understand it.

We endorse this Position Statement and require that all Customer Care officers and other staff involved with complaint handling:

- (a) **Step 1: Understanding the Position Statement**
Read and understand the Position Statement. Discuss with your supervisor if any aspect isn't clear.
- (b) **Step 2: Action steps**
Each bullet point in the Position Statement regarding dealing with relevant customers and their complaints is to be considered, and actioned as appropriate, in the course of those dealings.

42 **Guidance: helping customers from non-English-speaking backgrounds**

TIO has published a comprehensive Position Statement on *Responding to consumers with different needs* (including customers from non-English-speaking backgrounds):

<https://www.tio.com.au/about-us/position-statements/responding-to-consumers-with-different-needs>

A copy is attached to this CHP as Annexure 1.

We endorse this Position Statement and require that all Customer Care officers and other staff involved with complaint handling:

(a) *Step 1: Understanding the Position Statement*

Read and understand the Position Statement. Discuss with your supervisor if any aspect isn't clear.

(b) *Step 2: Action steps*

Each bullet point in the Position Statement regarding dealing with relevant customers and their complaints is to be considered, and actioned as appropriate, in the course of those dealings.

43 **Guidance: helping customers suffering financial hardship**

Our Financial Hardship Policy fully details how we deal with and help customers suffering financial hardship. It sets out the steps we go through in receiving, processing and finalising a financial hardship application.

A copy of our Financial Hardship Policy is available on our web site.

We require that all Customer Care officers and other staff involved with complaint handling:

(a) *Step 1: Understanding the Position Statement*

Read and understand the Financial Hardship Policy. Discuss with your supervisor if any aspect isn't clear.

(b) *Step 2: Action steps*

Each numbered paragraph in the Financial Hardship Policy is to be considered in dealing with relevant customers and their complaints, and actioned as appropriate, in the course of those dealings.

The steps in the Financial Hardship Policy should be followed in order. Where a step needs to be taken by the customer, assist the customer to do so.

44 **Complaint records we'll keep**

We'll systematically record for each complaint, and retain for two years:

(a) the name and contact details of the consumer making the complaint, and their representative where applicable;

(b) a unique reference number or such other measure that will ensure

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- the carriage service provider can subsequently identify the complaint and its subject matter;
- (c) a description of the nature of the complaint and the issues raised as part of the complaint;
- (d) a description of the resolution proposed by the carriage service provider or the consumer;
- (e) the due date for a response;
- (f) a description of the results of any investigation;
- (g) a description of the proposed resolution of the complaint, including any associated commitments and the date this is communicated to the consumer;
- (h) a description of our reasons for its proposed resolution;
- (i) the consumer's response to the proposed resolution of the complaint, any reasons given by the consumer, and if they have requested the proposed resolution in writing, that this request has been made;
- (j) the implementation of any required actions; and
- (k) copies of any correspondence sent by or to the consumer regarding the complaint.

45 Privacy

We will ensure that personal information we collect in connection with a complaint is not disclosed to a third party except:

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

Annexure 1 – TIO – Responding to consumers with different needs

Responding to consumers with different needs

Complaints we receive involving consumers with different needs include claims that a provider:

- refused to deal with a person nominated by the consumer to communicate with the provider on their behalf
- did not adapt its information, communication methods, or services to take into account a consumer's different needs
- disregarded or took advantage of the consumer's different needs when offering or selling its services
- did not provide sufficiently detailed and accurate information about disability equipment, either at point of sale or on an ongoing basis.

Examples of consumers who may have different needs include consumers who:

- have a disability
- have a serious or chronic illness
- are from an Indigenous background
- are from language backgrounds other than English
- are homeless
- are very young, or are elderly
- live in a rural or remote area, or
- have a low level of literacy or numeracy.

For complaints involving priority assistance services see our position statement [Priority assistance services](#).

For complaints involving selling practices or lack of informed consent see our position statement [Pre-sale information or conduct](#). For complaints involving capacity to contract see our position statement [Contracts](#).

For complaints involving financial hardship see our position statement [Financial hardship](#).

This position statement should also be read in conjunction with any other [TIO position statements](#) that may be relevant. It does not replace any other position statement on a particular topic.

This position statement provides broad guidance on the law, good industry practice, and what the TIO may consider to be fair and reasonable in general circumstances. It is not a full statement of the law or good industry practice. The TIO considers each matter brought to it on its own particular merits.

POSITION STATEMENT

Responding to consumers with different needs

Laws, codes, and guidelines

The following laws, codes, and guidelines are relevant to consumers with different needs:

- [Competition and Consumer Act 2010, Schedule 2 The Australian Consumer Law](#)
- [Disability Discrimination Act 1992](#)
- [Telecommunications \(Consumer Protection and Service Standards\) Act 1999](#)
- [Telecommunications \(Equipment for the Disabled\) Regulations 1998](#)
- [Telecommunications Consumer Protections \(TCP\) Code 2015](#)
- ACCC compliance guide [Don't take advantage of disadvantage 2011](#)
- Communications Alliance [Guidelines on developing accessible documents](#)
- Industry Guidance Note: [Migration Of Back-To-Base Medical And Security Alarms To Fibre To The Premises \(FTTP\) Open Access Networks – Considerations](#)

Our approach

When we deal with complaints involving consumers with different needs we consider the law, good industry practice, and fairness in all the circumstances.

The law

Rules in the [Australian Consumer Law](#) prohibit misleading, deceptive, and unconscionable conduct in the supply of goods or services.

The Australian Consumer Law sets out factors a court will consider when assessing if conduct is unconscionable, including:

- the relative bargaining strength of the parties
- if any conditions were imposed on the weaker party that were not reasonably necessary to protect the legitimate interests of the stronger party

- if the weaker party could understand the documentation used
- the use of undue influence, pressure or unfair tactics by the stronger party
- the requirements of applicable industry codes
- the willingness of the stronger party to negotiate
- the extent to which the parties acted in good faith.

See our position statement [Pre-sale information or conduct](#) for more information.

The [Disability Discrimination Act](#) prohibits discrimination on the grounds of disability when providing goods or services. If a person requires a carer or assistant, the Disability Discrimination Act applies in relation to the carer or assistant in the same way as it applies in relation to having a disability.

The [Telecommunications \(Consumer Protection and Service Standards\) Act](#) sets out a universal service regime to ensure that all people in Australia, wherever they reside or carry on business, have reasonable access to a standard telephone service, or an equivalent service if the person has a disability. This service is called a **USO service**. A provider that supplies USO services is known as the **universal service provider**.

Telstra is the current universal service provider. As part of its obligations under the universal service regime, Telstra must supply customer equipment in order to comply with the Disability Discrimination Act where the equipment is for use in connection with the standard telephone service. The equipment may be subject to rental charges and is provided following an application process which assesses eligibility criteria.

Good industry practice

The ACCC guide [Don't take advantage of disadvantage](#) includes the following guidance for providers:

- If it is apparent that a potential customer may not have the capacity to make a voluntary or informed purchasing or contractual decision, a provider needs to act responsibly and take extra care in its

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Responding to consumers with different needs

dealings to ensure that no unfair advantage is taken

- A provider should be alert to any special needs its customers have and make sure it has systems in place to prevent any unfair treatment
- A provider should consider that it may be appropriate for a guardian, carer or other appropriate person to be present to either act on the consumer's behalf or help explain and assist the consumer with a decision
- If things go wrong, a provider should be open to resolving complaints and, where appropriate, setting aside contracts or agreements.

Rules in the [Telecommunications Consumer Protections Code](#) include that a provider must:

- communicate with consumers in plain language
- communicate with a consumer in a way that is appropriate to the consumer's communications needs including those with special needs
- ensure that consumers can view and download all relevant terms and conditions of its telecommunications products from a website
- ensure that a consumer can appoint an **authorised representative** to act on their behalf, if the consumer requires
- ensure that a consumer can easily use an **advocate** to communicate with the provider, if the consumer requires.

In the Telecommunications Consumer Protections Code:

- authorised representative means the person who has authority from a consumer to deal with a provider on their behalf as their authorised agent
- advocate means a person nominated by a consumer to deal with a provider on their behalf, but does not act as the consumer's agent and cannot access any of the consumer's account information.

Guidelines

The Communications Alliance [Guidelines on developing accessible documents](#) give guidance for providers about how to provide equity in access to telecommunications products, services, and information. This includes:

- when a product, a service, or information is likely to impact on people with disabilities, providers should consult with appropriate people with disabilities in the initial stages of its development
- providers should make any documentation available in alternative formats on request, including large print, Braille or electronic format. Electronic documentation should be accessible to computer screen reader software used by people who are blind or have vision impairment
- all printed information should be designed with appropriate font size, style and colour, appropriate colour contrast between background and text, and with clear, defined graphics to maximise readability for people with vision impairment
- a range of different ways of interacting with people with disabilities should be available, and the appropriate one used on request
- customer service lines should include sufficient text communication facilities for people who are deaf, hard of hearing, or with a speech impairment, to enable communication in real time. Customer service staff should be trained in the efficient use of the relevant communication devices
- customer service counter staff should provide facilities which enable communication, including:
 - on request, sign language interpreters for Deaf people
 - hearing augmentation (such as a hearing loop) for people who are hard of hearing
- providers should ensure that a customer with a disability, non-English speaking background or other special need can be easily assisted by an advocate, if required, when communicating.

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The Industry Guidance Note [Migration Of Back-To-Base Medical And Security Alarms To Fibre To The Premises \(FTTP\) Open Access Networks – Considerations](#) encourages providers to develop processes to identify consumers that have medical alarms and add them to NBN Co's [medical alarm register](#).

We encourage providers to adopt and apply the principles set out in these guidelines.

TIO view

Adapting to a consumer's different needs

Providers should not place any undue burden on a consumer with different needs by requiring them to provide onerous information to verify the consumer's different need. For example, a provider should not require detailed specialist medical evidence to support a complaint about lack of capacity to contract if there is other more easily obtainable information available, including documents already held by the consumer.

When a provider is aware that it may not be able to adapt its services sufficiently to meet a consumer's needs, we encourage it to discuss this with the consumer, particularly if there are other providers that will be able to offer the services the consumer requires. In some cases it may be appropriate to release a consumer from contract without exit fees and assist with a transfer to another provider.

When a consumer nominates another person to communicate on their behalf

People that consumers commonly ask to communicate on their behalf include financial counsellors, legal advisors, carers, family members, and friends of the consumer.

We would expect a person communicating on a consumer's behalf to be able to demonstrate to a provider that they have been validly nominated by the consumer.

We encourage providers to have standard and simple processes, without unnecessary requirements, to allow another person to communicate on a consumer's behalf, including when the person is

making enquiries and complaints for the consumer.

Communication in languages other than English

If a provider is specifically marketing its services to a particular community from a language background other than English, we encourage the provider to communicate its services in a language widely understood by people of that community.

See our position statement [Pre-sale information or conduct](#) for information about informed consent.

Dealing with a dispute

To assess a complaint involving a consumer with different needs we may ask for information from the consumer and provider, including:

- Does the consumer have a particular need that requires the provider to offer different products, services, or communication?
- Has the provider addressed this need appropriately in the circumstances?

Outcomes

When, in our view, a provider has not met the requirements of the law, good industry practice or guidelines when dealing with a consumer with different needs, we expect the provider to comply with these requirements and address any detriment. This may include:

- accepting an enquiry or complaint from a person nominated by the consumer to communicate on their behalf
- releasing the consumer from a contract without exit fees.

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When, in our view, it is appropriate for a provider to adapt its information, communication methods, or services to meet a consumer's particular need, but it has not done so, we expect the provider to make the required adaptation and address any detriment. This may include:

- offering the consumer appropriate customer equipment
- providing suitable communication options for the consumer.

Effective date: 11 March 2016

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