

Manager, Emerging Issues
Department of Communications, Information Technology and the Arts
Via email: Emergingissues@dcita.gov.au

March 2007

Re: Proposed draft Amending Direction that Varies the Customer Service Guarantee (CSG) Direction 1999 to direct ACMA to amend its CSG Standard 2000.

Thank you for the opportunity to provide general comment on the proposed changes to the telecommunications Customer Service Guarantee to better accommodate Voice over Internet Protocol (VoIP) services, via the draft Amending Direction that Varies the Customer Service Guarantee (CSG) Direction 1999 to direct ACMA to amend its CSG Standard 2000 (the draft Amendment).

The Consumers' Telecommunications Network (CTN) is a national peak body of consumer and community organisations, and of individuals representing community interests, who participate in developing national telecommunications policy. We advocate policies for better access, quality of service and affordability of telecommunications facilities for all residential consumers. CTN's members are national and state organisations representing consumers from non-English speaking backgrounds, deaf consumers, Indigenous people, low income consumers, people with disabilities, young people, pensioners and superannuants, rural and remote consumers, women and consumers in general.

In our discussions with industry and government, it has become apparent that VOIP services are widely considered to present a new set of regulatory challenges. In our view, the underlying principle that basic consumer protections should apply VOIP services also applies to other telecommunications services; we do not consider VOIP services to be exceptional.

Where a VoIP service is promoted and described as providing a service equivalent to a standard telephone service, consumers expect and should be guaranteed a standard level of service. If service providers want widespread take-up of new technology like VoIP, there should be no fear of having minimum consumer protections to ensure consumers receive accessible and affordable communications services of acceptable quality. Having quality standards

actually fosters a better consumer experience, which in turn leads to broader uptake in the community. Pricing is of course relevant for many consumers, but should not be understood as the only consideration. Requiring a fair level of quality of VOIP services will not stall innovation, nor will it deny choice to consumers, or unreasonably burden industry. It will set a clear benchmark for VOIP providers to meet, which will in turn benefit the industry as consumers find that the reality of using VOIP services begins to match the hype.

The general purpose of the CSG is to protect residential and small business customers' telephone services by requiring carriage service providers (CSPs) to meet performance standards, and financially compensate users when these standards are not met. CTN strongly supports the ongoing need for a well-targeted CSG that requires CSPs to compensate consumers where they fail to provide services in circumstances that are generally agreed to be fair and reasonable. We also think it is imperative that a complementary reporting regime exists, so there is oversight over how well CSPs are meeting their obligations.

We have three broad areas of concerns with the proposed Amendment to the CSG, namely the limited applicability of the CSG (shifting responsibility away from service providers), the practical application of the CSG to VoIP services, and the precedent the Amendment may set for consumer protections not only for VoIP, but also for future communications technologies.

As for our first area of concern, if the proposed amendment were to be implemented as they stand, it is our understanding that very few, if any, VoIP services will be covered by the CSG. Moreover, it is unclear if any service providers in the future will choose to actually provide a standard telephone service VoIP service at all. This will leave many consumers without adequate protection, specifically in the areas of connection of service, fault restoration and redress. The CSG would be reduced to a mere token that is not designed to offer equivalent protection to the majority of VOIP consumers.

We think that the proposed Amendment could result in VoIP users being exposed to an unreasonable risk, due to the inadequacy of guaranteed service levels. In a competitive environment, consumers should be able to choose any service provider for their basic service and still have a number of universal protections – especially in the areas covered by the CSG. At the very least, consumers should have the information and tools with which to evaluate levels of service. This will not be the case with VoIP under this Amendment, as consumers may have limited, if not any, service guarantee for the services they buy. This situation is further complicated by the fact that it is unclear just how VoIP providers will indicate that whether or not they are providing a VoIP service covered by the CSG.

Of equal concern is the apparent shift of responsibility to the customer to sort out where faults lie, since the Amendment relieves most broadband providers and

VoIP providers from doing anything to resolve a fault in a timely manner. Ideally, it should be the responsibility of the VoIP provider of the STS equivalent service to sort out with the broadband provider how to address faults. In the current regulatory environment there are bilateral agreements in place to manoeuvre around commercial complexities, and it is unclear why VoIP providers should be exempt from doing this too, especially when providing an STS equivalent service. There may be a need to set alternative timeframes, or perhaps a CSG equivalent mechanism for VOIP services, but the onus should not be on the customer of an STS equivalent service to sort out faults, ensure a connection, or pursue compensation from a carrier. In a competitive environment, a customer should be able to take advantage of new services when they are STS equivalent without having to sort through fault repair. There needs to be an onus on the service providers to help the customer in a timely fashion, or else the effect may well be to undermine the widespread up take of new technologies like VOIP.

Our second area of concern is the real-life application of the CSG under the proposed Amendment. Our concerns lead us to wonder if the CSG mechanism is practical in its application to VOIP, or if the mechanism itself needs to be reworked, maintaining the underlying consumer protection principles.

DCITA will be aware that industry, regulators, and consumer groups are in the early stages of working through issues raised by VoIP services in working groups within the Communications Alliance, including fault restoration. We are unsure whether the current CSG would be enforceable in the market place right now, or even in the near future.

Moreover, the draft Amendment says that a VoIP service isn't exempt if it is provided as a USO service. However, as it stands, it is difficult to identify or test what is a USO service. Payphones are a prime example of this lack of absolute certainty about what is and what is not supplied under the USO. This is an aspect of the Amendment that will be hard to put into action in practice, and we strongly advise further clarification is needed on this matter.

Other areas of the Amendment that would benefit from clarification include the term "same legal entity". For instance, if Telstra offered a VoIP service, and the consumer also had a BigPond service, though the companies are separate legal entities, are they outside the CSG – even though they are owned by the same company? Likewise, more clarification of "contractual relationships" is needed. Specifically, to and from which party would consumers claim and receive compensation? Which party would be ultimately responsible for the service in the eyes of the regulator?

Our third area of concern is of a big picture nature. From a policy perspective, if Australia moves towards the uptake of new technology, a 'next generation' environment, appropriate safeguards must follow, to ensure consistency in our approach to regulation and consumer protection. We are opposed to any attempts to set a precedent of removing or exempting applicable consumer

protections to accommodate any new technologies or as an alternative to resolving complex commercial or technical matters. CTN does not seek to deny consumers choice or inhibit technological advance. Simply, we are aiming to ensure and improve the quality, accessibility, and affordability of VoIP services for residential telecommunications consumers in Australia. Widely available services that meet minimum service levels, as a result of the CSG or an equivalent mechanism, should be a cornerstone of the VoIP market as it develops in Australia. It is CTN's belief that the proposed Amendments will not achieve this.

Thank you once again for the opportunity to comment and to have our comments taken into account. Should you wish to discuss this response in more detail please contact myself or Ryan Sengara at the Consumers' Telecommunications Network on 02 9572 6007 or at ctn@ctn.org.au.

Yours sincerely,

A handwritten signature in black ink that reads "Teresa Corbin". The signature is written in a cursive style with a long horizontal flourish at the end.

Teresa Corbin
CTN Executive Director

This submission was prepared by Ryan Sengara, CTN Project Officer, Sarah Wilson, CTN Policy Advisor, and Teresa Corbin, CTN Executive Director. It was approved out of session by the CTN Council.
