



Better Delivery of Universal Services

ACCC Submission

1 March 2024

Introduction

The ACCC is the economy-wide competition regulator responsible for enforcing the *Competition and Consumer Act 2010* (Cth). We protect Australian consumers by fostering competitive, efficient, fair and informed Australian markets including telecommunications markets.

Telecommunications services are essential. They play an important role in economic and social life and support access to government services, work, business, education, health and entertainment needs. Consumers without connectivity will struggle to access essential government services such as health and welfare services. They will have significantly limited employment prospects and will be excluded from many pathways for education. More personally, they will also be left behind by social and cultural changes and have more limited opportunities for interaction and entertainment than other consumers.

Recent developments will impact the delivery of universal services in the future including significant technological changes, shifts in consumer expectations and the completion of the National Broadband Network. The ACCC acknowledges that there is a need for change to ensure the universal service framework continues to meet the needs of consumers. The ACCC supports the current consultation on key elements of a modern universal service framework. We consider this an important opportunity to ensure safeguards for the provision of universal services maximise outcomes for end-users of telecommunications services.

A universal service framework will continue to be important to ensure that communications services— both broadband and voice— are available, accessible and affordable for all Australian consumers no matter their circumstances. For this to happen the Universal Service Obligation will need to be delivered in a more cost efficient and effective manner.

The Universal Service Guarantee makes commitments to give all Australians access to a broadband service, a standard telephone service and payphones, which provides consumers with a reliable baseline service on an equitable basis.

The Universal Service Obligation, as part of that guarantee, is important in ensuring the delivery of standard voice services and payphones. The current consultation on ways to better deliver baseline universal telecommunication services should be open to new ways to deliver the Universal Service Obligation, as well as flexibility in who delivers it.

This submission outlines the key principles the ACCC considers should continue to govern the delivery of the universal services framework.

Key principles

The ACCC has previously made a number of submissions on universal services, consumer safeguards and telecommunications consumer protection¹. The ACCC supports modernising the universal service framework. We see this as an opportunity to ensure the ongoing provision of universal services best meets the needs of— and maximises outcomes for— consumers in areas where it is not viable to provide commercial services. However, any modernising of the universal services framework should rely upon key principles that set out clear policy objectives.

¹ ACCC submission to the Issues Paper on the Telecommunications Universal Service Obligation 2016 and the ACCC submission to the Thematic review of the Customer Service Guarantee 2023

The ACCC considers there to be several key principles which underpin the better delivery of universal voice and broadband services:

- Universal services should be available, accessible and affordable for all. This is particularly important for regional and remote consumers and First Nations communities, as well as vulnerable members of the community where the incentives to provide commercial services are low.
- Payphones support some of the most vulnerable members of our community and should be maintained under any future framework.
- A universal services framework should meet baseline consumer expectations for service and functionality, regardless of the technology mix used to deliver services.
- Services should be reliable according to standards expected by consumers and industry, with transparent reporting against well-defined standards.
- The universal service framework should be flexible to adapt to market changes and new technologies.
- Customer Service Guarantees and Priority Assistance (for people with life-threatening medical conditions) remain important to ensure quality of service.
- Funding of the Universal Service Obligation should be through a transparent process which promotes long-term sustainability and equity, and promotes competition where possible.

A universal service framework should meet the needs of consumers

To determine affordable, available, accessible and reliable telecommunication service standards the Department should continue to consult broadly with telecommunications providers and consumers, particularly those most vulnerable or reliant upon the Universal Service Guarantee.

When the Universal Service Obligation was initiated, expectations for functioning voice services were substantially different from current expectations. The ACCC notes that voice services can now be supplied over broadband connections by a number of different applications. Similarly, technological advancements have likely enabled additional features that have been embraced by consumers. The changes in consumer behaviour should now be considered in determining what the essential components of a universal communications service (for example, voice mail). Defining and updating what is considered a baseline level of telecommunications services could also be useful for other parts of Australian telecommunications policy, such as the Telecommunications Consumer Protections Code and Financial Hardship Standard. Consumers in remote communities also rely on many of these newer functionalities, such as voice mail to mitigate the difficulties caused by unreliable connection.

Since the introduction of the Universal Service Obligation, there has been a significant expansion in the use of mobile phones. Mobile phone ownership and use is almost ubiquitous except for the most remote or difficult to service areas. Mobile phones are important for consumers, not only for voice services, but also SMS for two-factor authentication and order tracking as well as access to internet and GPS services. The ACCC considers that, while these technologies are extremely important to enable consumers to fully participate in society, any inclusion of mobile services into a universal services framework would need to first determine what coverage a universal mobile service would be able to provide.

While mobile coverage covers over 99.5% of the population of Australia, it covers a far smaller land mass. Expanding terrestrial mobile coverage to service all consumers would involve significant government investment in what are generally considered non-commercial areas. Paying a single provider to deliver or expand mobile coverage for a universal service may also create significant market distortion and potentially entrench monopoly service provision in regional and remote areas.

Rural, regional and remote consumers outside the NBN fixed line footprint have expressed concerns to the ACCC in a number of forums about the possibility of losing access to their existing copper line services, particularly where there are few proven or reliable alternatives. In essence, the voice service is considered the 'back up' service in cases of emergency and broadband delivery failure. While some consumers expressed a view as to the inevitability of change, they remained concerned about the quality, reliability and cost of alternative solutions.

Importantly, consumers should not be moved away from legacy technologies for an inferior service. While the Universal Service Obligation guarantees a standard voice telephone service, customers who are moved to a mobile or other voice service are not entitled to protections such as the Customer Service Guarantee or Priority Assistance. Similarly, moving to a satellite phone service can also have drawbacks over traditional landline voice service, including being subject to different weather effects and having higher latency. This is particularly the case for consumers on the copper network, where Telstra is paid a significant sum to maintain operation outside of the NBN fixed line footprint.

Where Telstra does not own the infrastructure, it should not be the sole provider of the Universal Service Obligation

Currently, the Telstra Universal Service Obligation Performance Agreement expires on 30 June 2032. It would seem an appropriate that any modernisation of the USO begins much sooner and perhaps ends much earlier than that.

Within the NBN fixed line and wireless broadband footprints, consumers generally have a range of options available to acquire the equivalent of a standard telephone service of acceptable quality at a reasonable price. However, many consumers outside this footprint still rely on legacy networks for voice services. Others will use different technologies across their voice service and broadband connection; for example, consumers might use a copper network for voice services and satellite for broadband (or some combination of both). For some consumers, a mobile phone service may provide both these services.

Given the completed rollout of the NBN there appears little need for Telstra to be designated as the retailer of last resort to provide standard telephone services within the NBN fixed line footprint, other than to hold them to consumer standards such as the Customer Service Guarantee and Priority Assistance. Retail competition over the NBN is well-established and should be sufficient to ensure the provision of retail voice services to all premises within the NBN fixed line and fixed wireless footprint. In contrast, future funding and delivery models for USO services outside the NBN fixed line footprint should take into account the potential benefits available from competition. The government should give careful consideration that any future model does not reinforce a single provider's dominance in the delivery of universal services.

Where infrastructure that supports alternative voice services of sufficient quality is unavailable – such as in areas outside the NBN fixed line and wireless footprint – Telstra should continue to be designated as the universal service provider until this is available from alternate providers. Within the NBN footprint, there may be merit in shifting the responsibility

of supplying the underlying infrastructure on which the universal service responsibility is delivered from Telstra to NBN Co. This may allow NBN Co the opportunity to expand coverage of technologies that can deliver high quality voice services (using its current assets more efficiently), or acquire new assets.

Alternatively, the ACCC considers that new providers capable of supplying voice and broadband services outside of the NBN fixed and wireless networks may provide new means of supplying universal voice services and should be explored. Telstra has recently entered an exclusive arrangement with Starlink low earth orbit satellites for the delivery of voice services and other operators are developing similar capabilities². This may allow Telstra to provide home phone service and Starlink broadband services to consumers as a bundled service, potentially meeting the Universal Service Obligation in this way³. This suggests that there are technological alternatives for the delivery of universal voice services.

Importantly, in any situation which moves the Universal Service Obligation away from a single retailer, consideration will need to be given to ensuring retailers offer baseline voice services that meet consumer expectations. If barriers remain to providing a voice service to all Australians, regulation or incentivising subsidies may be required to ensure retailers provide universal coverage. Changes in regulation to ensure customers retain access to the Customer Service Guarantee and Priority Assistance at a retail level will also be necessary.

Regardless of longer-term options, there should be a continued obligation on Telstra to act as a universal voice service provider until alternative arrangements are tested and considered fully functioning. We anticipate considerable consumer resistance to a future move away from Telstra as the primary provider of USO services. Discussions with consumer organisations note the strong ties that consumers have to landline service. Should the government proceed with a major change to the Universal Service Obligation, there will be a need to recognise the role of consumer involvement and independent testing of alternative networks (including at the local level) as essential elements of any implementation plan to shift full responsibility of the USO from Telstra to NBN Co and its wholesale network.

Ultimately, the ACCC supports further consideration of whether a retail or wholesale infrastructure provider is the best delivery partner for Universal Services Obligation. However, it is worth considering that the best method of delivering universal voice services during a transition period, where a retail telecommunications provider owns key legacy infrastructure, may differ from the best long-term solution once transition away from legacy technologies is complete.

The Universal Service Obligation should continue to provide minimum voice service standards

The Universal Service Obligation ensures that fixed standard telephone services (STS) and payphones are accessible to all people in Australia regardless of where they reside or carry on business. Currently, the Universal Service Obligation ensures that Telstra will provide a standard telephone service that includes, but is not limited to, the following functionalities:

- a unique phone number
- calling line identification
- operator assistance, and

² [Australian Financial Review - 6 July 2023](#)

³ [Telstra Exchange - 3 July 2023](#)

- itemised billing.

Importantly for some consumers, the Universal Service Obligation guarantees minimum levels of service under the Customer Service Guarantee, as well as access to Priority Assistance for those who require it. The ACCC considers it likely that most of these functionalities will be required– in some form– in any future universal services framework, and supports maintaining or expanding these functionalities unless there are clear indications from consumers that they are no longer required. In the specific case of First Nations communities, it is important that measures address fundamental improvements in services and functionality in order to genuinely move towards equity of service and reduce the digital divide.

Functionality and standards should be considered in the context of the technological changes since the introduction of the Universal Service Obligation. In the last decade, the major change to voice services has been growing use of Voice over IP (VoIP) technology, largely provided within the NBN network. VoIP services can offer higher quality telephone calls with additional functionality that public-switched telephone networks cannot. However, as VoIP services are linked to an underlying broadband technology, standards around connection and remediation times would need to apply to broadband services in order to ensure they flow through to voice services.

Clear performance standards and reporting are required

The ACCC considers clear and transparent performance standards should be set and reported on under the Universal Services Obligation, including the current benchmarks outlined in the Customer Service Guarantee and Priority Assistance. Currently, Telstra provides quarterly reports on its Customer Service Guarantee compliance according to each exchange service area. From the December 2023 quarter, faults rectified within the Customer Service Guarantee time were less than 50% of the total faults reported.

The current Telstra Universal Services Obligation Performance Agreement outlines high level and aggregated performance standards, such as the Customer Service Guarantee. However, Telstra's performance under these standards is not communicated in a format accessible to customers in understanding their own situation. This can leave consumers unclear on what they are entitled to, and with no clear pathway to recourse when benchmarks are not met.

Standards should be defined and set in consultation with consumers and industry and could include metrics such as service uptime, voice latency and remediation outcomes. Importantly, while aggregate performance standards are useful for reporting, there can be cases where multiple instances of repeated below-benchmark performance affects the same customer or region. Standards and benchmarks should consider the distribution of any below-benchmark performance to ensure specific consumers are not repeatedly bearing the brunt of poor performance.

Ultimately, the provider of the Universal Service Obligation services should be held accountable to these standards, and their performance should be reported in a transparent manner. Clearly communicating standards to consumers along with providing and communicating clear avenues for recourse would improve accountability for a Universal Services Obligation provider and provide incentive for them to meet new and existing standards.

This is analogous to the concerns expressed by the ACCC in the ongoing review of the Telecommunications Consumer Protections Code. The ACCC considers this Code to be deficient and in need of significant improvement, including in relation to enforceability. Consumers and regulators need avenues to address breaches of regulatory protections like

the Universal Service Obligation, and it is important that the regulatory framework be suited to providing them.

Additional performance standards are likely to be required

The ACCC considers that the Statutory Infrastructure Provider framework which requires NBN Co and other nominated providers to connect all Australian premises to a wholesale broadband network is sufficient to ensure all consumers can acquire an adequate retail broadband service that meets their needs. When coupled with wholesale price regulation under the NBN Co Special Access Undertaking and other regulatory instruments, this framework provides retail competition for the benefit of industry and consumers.

This requirement will also enable the delivery of voice telephony services delivered by alternate means such as VoIP and over-the-top applications. The ACCC considers it would be appropriate to align broadband standards with voice standards where appropriate.

The Statutory Infrastructure Provider regime outlines minimum standards for broadband across Australia, with the Minister for Communications able to set standards through legislative instruments. In addition, the Minister can nominate a particular telecommunications infrastructure network as a Statutory Infrastructure Provider through a legislative instrument. Currently, the Statutory Infrastructure Provider regime applies to NBN Co and other providers in nominated regions where NBN Co is not the Statutory Infrastructure Provider.

Standards set under the Statutory Infrastructure Provider regime currently mandate minimum speed and initial connection times, among others. However, standards for remediation similar to those found in the Customer Service Guarantee are not included. Under the NBN Co Special Access Undertaking, NBN Co is subject to a range of standards effectively ensuring those who receive broadband through the NBN receive baseline service standards, including remediation times and availability of Priority Access. To ensure broadband is available and accessible to all customers, Statutory Infrastructure Providers should have similar standards, in line with what consumer would expect for remediation and priority access of voice services.

Alternative technologies are emerging that are capable of delivering high quality voice services

Under the current Telstra Universal Services Obligation Performance Agreement, Telstra is able to provide a voice service using any technology available to Telstra and must offer voice services on NBN infrastructure inside the fixed line footprint. However, as outlined in the Department's discussion paper, there are approximately 300,000 services that rely upon other Telstra owned infrastructure for a voice service. The current Telstra Universal Services Obligation Performance Agreement requires Telstra to maintain its copper network outside the NBN fixed line footprint, ensuring consumers have access to voice services where there is no fixed line NBN or other statutory infrastructure provider.

Telstra legacy copper network remains important for many but is in decline

Without Telstra's legacy network, it's likely many outside the NBN fixed line footprint would face a significant reduction in quality of service. As such, the ACCC supports an arrangement under which Telstra maintains its copper and other legacy networks (for example, the high-capacity radio concentrator network) ensuring essential voice services are available to all in areas where alternative infrastructure cannot match or exceed legacy voice services.

However, as new technologies become more widely available (for example, LEO satellites) and expectations change as to what a universal service is, the ACCC considers reliance on the legacy networks should be reduced. Telstra is transitioning customers off its legacy network, as shown by the decline in the number of services in operation on the Telstra Customer Access Network, including across the copper network. The number of consumers on this network decreased from 863,408 in the December quarter of 2021 to 444,200 in the December quarter of 2023. Moving away from a copper-based universal service provision will likely mean reduced costs, as well as additional functionality– provided by VoIP– that cannot be delivered over copper.

New technologies are emerging rapidly

As new technologies emerge it may be possible to fully transition away from copper and other legacy Telstra networks. Satellite coverage is nearly universal, and therefore offers a possible alternative to the legacy networks. However, consumers will need confidence that these technologies can deliver reliable, quality services. The ACCC again acknowledges the ongoing technical trials to deliver voice services over low earth orbit satellite. We support the use of new and alternative technologies to reduce the reliance on copper, where the technologies meet the standards and functionalities expected by consumers and industry.

In addition, the Statutory Infrastructure Provider regime requires other fixed wireless infrastructure providers to support voice services, albeit without some of the Universal Service Obligation safeguards. Reliability has remained a concern for VoIP delivered through fixed wireless, in comparison to a standard voice service delivered over the copper network. However, recent NBN upgrades have improved the quality of the fixed wireless service. The ACCC considers that the NBN fixed wireless service has the capability to improve universal service outcomes. This may be particularly relevant for some First Nations communities, which currently face severe access issues and may benefit from more bespoke solutions.

The ACCC acknowledges the ongoing technical trials to assess the effectiveness of delivering voice services over fixed wireless networks. We support both reducing the scope of the copper continuity agreement and increasing the delivery of universal services over the NBN fixed wireless network if it can deliver VoIP against standards set for current voice services.

Who should be the retailer of last resort

Telstra is designated as the retailer of last resort to provide standard telephone services inside the NBN fixed line footprint.

In areas outside the NBN fixed line and wireless footprint, where the NBN is not able to provide a service of acceptable quality, Telstra should continue to be designated as the universal service provider of voice services until such time as it can be demonstrated that alternative voice services of a sufficient quality and reliability can be provided in these areas. The ACCC notes that it has previously advocated that the universal service provider should be selected using a competitive process. However, for a range of reasons, this has not been implemented in practice. New technologies may provide an opportunity for alternative providers to provide the infrastructure over which universal service are provided.

Mobile services are important but need to be considered in addition to voice-only services

In some locations, mobile telephone technology such as 4G and 5G could be considered suitable to provide a voice service alternative to the copper network. We consider mobile services are capable of providing a comparable voice service across significant proportions of Australia, as outlined in carrier coverage maps. However, mobile coverage is not

universal, meaning mobile cannot provide a standalone solution to replace legacy Telstra infrastructure.

The infrastructure for mobile operators is also privately owned, with three major competing networks. Funding a single organisation for universal voice services could therefore distort the mobile market for regional and rural customers. In considering how mobile technologies play a part in the Universal Service Obligation, the Department should consider the potential impact of additional funding on the mobile services market.

Access and affordability

The affordability of Universal Service Obligation services continues to be an important factor in their value. In order for a service to be universal it must remain affordable for members of all communities. Many universal services products remain relatively expensive, especially when their comparative level of service is considered. This is especially true for consumers whose only viable options are satellite-based telecommunications solutions. Any move towards reducing Telstra's copper footprint and relying more heavily on emerging technologies would need to take into account the need for affordability. This is especially important given the potential vulnerability of many of the consumers reliant on the Universal Services framework.

Remote First Nations communities are especially vulnerable to changes to the Universal Services framework. This is because of the lack of mobile services in many such communities—highlighted by the Regional Mobile Infrastructure Inquiry the ACCC conducted last year— as well as the increased economic vulnerability in these communities. This can lead to increased reliance on services covered by the Universal Service Obligation, such as copper fixed line or payphones.

As such, the ACCC supports the Department consulting widely with affected First Nations groups. The Department should consider delivering universal voice and broadband services through tailored solutions that meet the needs specific to them, rather than relying on a one-size-fits-all solution. Additionally, as outlined in the discussion paper, the Department should consider the options to improve the affordability of prepaid plans for Universal Services products, ensuring First Nations and remote communities are not paying significantly higher rates for service.

Payphones

Payphones continue to play an important role in the provision of telecommunication services to vulnerable Australians. In fact, this role has increased considerably since Telstra's decision to remove charges to use payphones, with a more-than-threefold increase in usage from FY2020-21 to FY2022-23, as outlined in the Department's discussion paper.

Payphones are of particular importance for the most vulnerable members of society, who might otherwise struggle to access telecommunications. Consumer groups have raised their importance to people in a broad range of social situations including those unable to afford voice, mobile or broadband services. Young people and First Nations communities are also especially likely to rely on payphones, as are people on lower incomes more generally. Having access to reliable and low-cost/free connectivity is extremely important for these vulnerable groups, and the ACCC strongly supports its continued provision.

The introduction of Wi-Fi capabilities at some payphones has also increased their value to these members of society, as they provide access to data for consumers who might otherwise have limited options for connectivity.

In this context the ACCC supports the continued place of payphones in the universal services framework, with no reduction in footprint.