



Submission to the Better Delivery of Universal Services Review

The First Nations Digital Inclusion Advisory Group (Advisory Group) welcomes the opportunity to provide a submission to the Department of Infrastructure, Transport, Regional Development, Communications and the Arts (the Department) Better Delivery of Universal Services Review 2024 (the review).

We recognise that the Universal Services framework (the framework) is a key policy area which impacts on digital inclusion for First Nations people. While we believe the framework is not currently fit for purpose for First Nations people, particularly for people living in remote communities, reform of the framework provides an opportunity to resolve some of the most pressing digital inclusion issues facing First Nation communities.

Our submission is based on the fundamental principle that connectivity is a human right, and that all First Nations Australians should have access to affordable and reliable internet, regardless of where they live. It has the capacity to provide enormous economic and social opportunity for First Nations Australians, underpinning improved access to health, education, financial and government services.

About us

The Advisory Group was established in January 2023 by the Minister for Communications to provide advice on progressing Target 17 of the National Agreement on Closing the Gap. The Advisory Group consists entirely of First Nations Australians, and is supported by a Digital Inclusion Expert Panel. Target 17 of the National Agreement on Closing the Gap¹ commits parties, including the Australian Government, to ensuring that Aboriginal and Torres Strait Islander people have equal levels of digital inclusion by 2026. This underpins Outcome 17 of the National Agreement: Aboriginal and Torres Strait Islander people have access to information and services enabling participation in informed decision-making regarding their own lives.

Since the Advisory Group's establishment, we have undertaken considerable stakeholder engagement including meetings with First Nations groups, telecommunication providers and peak bodies. We have consulted with the Commonwealth, and state and territory governments. This engagement helped inform the Advisory Group's initial report. Continued engagement will underpin the development of a First Nations digital inclusion roadmap across 2024. The roadmap will also build on the First Nations Digital Inclusion Plan² and the National Agreement on Closing the Gap³.

Initial report

The Advisory Group's initial report, released on 23 October 2023⁴, drew on the outcome of its engagement with First Nations people and communities, and our understanding of the best available data and evidence. From sources such as the Australian Digital Inclusion Index (ADII)⁵, we understand that First Nations Australians, particularly in remote areas, are one of the most digitally excluded groups in our society, due to limited, poor quality or unaffordable communications services.

In 2023, the ADII showed there was an overall digital inclusion index score of 73.4 for non-First Nations Australians and 65.9 for First Nations Australians, reflecting a national gap of 7.5 for First Nations people. Those First Nations people living in remote (49.0) and very remote (48.0) areas had particularly low levels of digital inclusion, respectively 24.4 and 25.3 points below the national non-First Nations average. The relative gap between First Nations and Non-First Nations people in remote and very remote areas is 21.6 and 23.5 points which illustrates First Nations communities are even more disadvantaged and digitally excluded than non-First Nations Australians living in the same level of remoteness. This disparity demonstrates not only the issue of the affordability but the inherent institutional racism that prevents First Nations people from participating equally in a digital world.

Our initial report recommended the delivery of targeted measures to improve access to connectivity, making sure it is affordable and fit for purpose, and ensuring that First Nations people are aware of their connectivity options and have the digital skills they need to be safe online. The Advisory Group highlighted the need for industry and all governments to work in genuine partnership with First Nations people and communities and to build a strong understanding of the unique, rich and culturally specific ways in which digital technologies are currently being used among First Nations people and communities. It is vital that government and telecommunication providers recognise that digital inclusion and connectivity solutions must be placed based to ensure basic telecommunication and media services are available to all First Nations people and communities, enabling them to make informed decisions over their own lives.

Our response to the review

The Advisory Group's engagement with First Nations people, communities and other stakeholders indicates that many First Nations Australians are unaware of their consumer rights under current regulatory mechanisms, including the Telecommunications Consumer Protection (TCP) Code or the Universal Service Obligation (USO). Community awareness of the Telecommunications Industry Ombudsman (TIO) is limited and hard to access due to accessibility issues (including digital literacy and language barriers), lack of on-site support and difficulty in navigating the regulatory landscape (such as who do they contact for specific issues, and what role does each consumer organisation play, etc.)

It is our expert opinion that government needs to consider all aspects of digital inclusion, especially an increased focus on digital ability. There is little point in investing heavily in infrastructure and affordability initiatives if the lack of digital ability prevents First Nations people from connecting and harnessing the social and economic benefits this brings. While it is not clear whether such initiatives can or should be funded through a universal service framework, this should remain under active consideration by the Australian Government more broadly.

What do you consider are the key outcomes that a modern universal service framework should deliver?

This review provides an opportunity to ensure First Nations digital inclusion is explicitly recognised as part of a universal service framework – this includes ensuring equitable access and affordability for First Nations Australians as per the commitment under Target 17. It is our expert opinion

¹ Target 17 of Closing the Gap <https://www.closingthegap.gov.au/national-agreement/national-agreement-closing-the-gap/7-difference/b-targets/b17>

² First Nations Digital Inclusion Plan <https://www.niaa.gov.au/resource-centre/indigenous-affairs/first-nations-digital-inclusion-plan-2023-26>

³ National Agreement on Closing the Gap <https://www.closingthegap.gov.au/>

⁴ First Nations Digital Inclusion Advisory Group Initial Report <https://www.digitalinclusion.gov.au/publications>

⁵ Australian Digital Inclusion Index <https://www.digitalinclusionindex.org.au/>



that the framework needs to be outcomes-focused and adjust to changing consumer preferences instead of prioritising specific technology, including guaranteeing a certain quality of service to ensure all Australians can enjoy the full benefits of being online without slow speeds, high latency, or outages undermining their access to online services.

Consider First Nations consumer preference

It is critical that the framework considers the heavy reliance on mobile-only access for many First Nations Australians, particularly in remote communities. A framework that focuses largely on services to specific premises simply cannot deliver meaningful services for many First Nations people and communities because home connections are unavailable, unaffordable or both. Consideration also needs to be given to ensuring the framework is sustainable, including addressing issues such as operational and maintenance costs.

Increase First Nations Consumer Protections

The feedback we are receiving from First Nations people and communities is that they do not know that they have rights under the universal service framework and as a result are unable to seek redress should those rights be breached. The Regional Tech Hub does not offer First Nations-specific support or information, and neither the Australian Communication Media Authority or the Telecommunications Ombudsman provide dedicated First Nations support. There is a clear need for a revised framework that embeds First Nations consumer protections at its core and which includes community outreach to raise awareness and visibility of these protections.

Ensure resilience and redundancy

Telecommunications resilience and redundancy is also a key consideration. In order to be effective, the framework needs to consider both primary connectivity solution such as fixed line or fixed wireless phone/internet or mobile with fibre backhaul, as well as a secondary solution, such as public phones, shared Wi-Fi services, mobile with satellite backhaul, LEOSats or satellite phones. This is particularly important in emergency situations or in areas where weather conditions can frequently impact on primary connectivity. In order to ensure the framework is effective in the future, it is important that identification of these solutions is both technology neutral and is flexible enough to leverage emerging technologies. At a minimum, the Advisory Group recommends that a modern framework should embed the principle that continuity of service must be maintained. This could include, for example, legislating that all handsets sold in Australia must have direct to device capability to ensure, at a minimum, access to emergency calls; requiring device manufacturers to ensure that cheaper devices include direct to device capability, and/or diverting USO funding to subsidise handsets and regulating timeframes for addressing outages.

Be flexible for unique geographical considerations and emerging technologies

It is our view that the current framework is biased towards fixed line copper and fibre to the node (FTTN) networks which are often not suitable for remote and very remote areas. This embeds the digital divide as First Nations Australians who live in these areas are subject to expensive and unreliable connectivity. While alternative technologies such as satellite and fixed wireless have helped address the connectivity challenge in these areas, they will not, on their own, provide a sufficiently robust foundation for a framework moving forward. For example, NBN Co's Sky Muster is not configured for voice calls (Wi-Fi calls are not captured by the USO), has high latency (and is not reliable during heavy rain or cyclones) while LEOSats are low latency but are impacted by rain fade and are relatively expensive.

To address this challenge, it is our recommendation that a multi-provider approach be considered, to ensure the framework can draw on complementary connectivity solutions and promote competition to delivery of services via a competitive tender process. Furthermore, we emphasise the need for any technical trials to be conducted during the Northern Australia wet season. It is important that locations and timings monitor all climatic conditions, including the wet season and extreme heat otherwise there is a real risk of technologies being deployed that are ineffective and fail to address geographic requirements and community desire for place-based solutions.

What safety-net services does a modern universal service framework need to address?

While we recognise that there is considerable investment underway through measures such as the Australian Government's Mobile Black Spot Program and the Regional Connectivity Program, there continues to be a persistent and significant gap in connectivity access for First Nations Australians living in remote communities and homelands.

It is critical that the framework helps address this gap by ensuring connectivity for all First Nations households, particularly in the 670 (out of the 1,545) remote communities which currently lack any connectivity at all⁶. Safety-net solutions may vary; however, it is important to recognise that household connectivity should be the primary form of connectivity, and community wi-fi or public payphones a secondary solution. Equally, a modern framework must embed place-based solutions and the sale of direct to device handsets as mechanisms which provide safety net for connectivity for First Nations people, their households and communities. The issue of echoes and digital breakup in voice calls caused by latency and delays need to be addressed as these negatively affect user experience.

The framework also needs to address affordability issues for First Nations Australians, particularly given that pre-paid services are the primary choice for many First Nations Australians. Data from the ADII and Mapping the Digital Gap project shows that 53.3 per cent of First Nations people 'sometimes', 'often' or 'always' sacrifice essentials such as food or bills to stay connected, compared to 19.1 per cent of non-First Nations people. This is partly due to the relatively high cost of data on pre-paid services.

We recommend that pre-paid services be closer in parity to speeds and data allowance of post-paid services, and that this should be embedded in a modernised framework. The TCP Code and other consumer protections should be strengthened (including enforcement) to prevent mis-selling of telecommunications products to First Nations consumers. Consumer rights and awareness activities should also be addressed, including a requirement to provide culturally appropriate consumer support and messaging, equal protections and relief for pre-paid customers, LEOSat users and support for consumers experiencing family violence. We also recommend that all government services phone numbers should be made free to call; which would ensure that the most disadvantaged are not further burdened by the impost of connecting with services and government websites.

⁶ Department of Infrastructure, Transport, Regional Development, Communications and the Arts First Nations Data Web App <https://spatial.infrastructure.gov.au/portal/home/item.html?id=cebfe7afe0894bd9bda06edbd65b9d17>



To what extent do you consider mobile services are important to complement fixed services supported under the existing framework?

Given the dominance of mobile connectivity in Australia, which is higher in First Nations populations, it is important that mobile services are a central focus of a future framework. As referenced above, it is also critical that lack of mobile connectivity in around 670 remote communities and homelands be addressed as a matter of urgency.

It is essential that if a modernised framework identifies mobile connectivity as a primary service that coverage, then reliability and affordability must be addressed in regulations. We note the recent House of Representatives Standing Committee on Communications and the Arts report 'Connecting the country: Mission critical Inquiry into co-investment in multi-carrier regional mobile infrastructure' recommended the following:

- Recommendation 16 (4.138): The Committee recommends the Australian Government develop and implement a practical universal service obligation for mobile telecommunications service providers.
- Recommendation 19 (4.141): The Committee recommends the Australian Government commission and publish a government-led cost-benefit analysis of increased access to telecommunications infrastructure in under-serviced regional and remote communities to inform future policy and program development and funding decisions.

We fully support the above recommendations of the House of Representatives Standing Committee and encourage the Australian Government to implement them in full.

Which existing requirements under the current framework should be retained, or changed?

The current regime has locked First Nations communities into infrastructure that is not appropriate for those who experience the most digital exclusion. This has exacerbated the digital gap by directing resources away from critical infrastructure needs that may be more appropriate and have greater impact on people's access to information and online services. We consider that the move to a place-based solutions requirement would embed the principles of the Regional Connectivity Project; addressing individual community needs rather than the existing "one size fits all" approach.

Changes to technology mean that modern Australia relies on data networks to stay connected; with ACMA reporting that 63 per cent of Australians only have a mobile phone to make voice calls from home⁷. We know that First Nations people overwhelmingly use pre-paid mobile services as their primary device, which means that they are not currently afforded the protection of the CSG and pay more for voice and data calls than post-paid services. Adding data to the USO would address this imbalance, but any reform would need to ensure parity of pricing and require the quality of service and the speed of service not to slow down from congestion as consumer use increase as better service enable greater access to the internet and services.

We understand that both High Capacity Radio Concentrator (HCRC) repeater networks and local copper networks are likely to need replacement before 2032. It is our view that their replacement must be resilient and effective in circumstances which could include power and/or network outages, as well as seasonal and topographic factors such as wet season, mountainous areas and dispersed communities. For this reason, appropriate backhaul e.g. satellite backhaul may be reliable in central Australia but may not meet reliability requirements in Northern Australia during the wet season.

We recommend that power supply reliability, with solar backup and 12-hour minimum battery life throughout the network, be addressed within the framework, especially with climate change affecting weather patterns and leading to an increase in natural disasters. To this end, emergency calls (000) must work at all times regardless of flooding, power outage and network outages. There is a real need for an alternate means of making calls such as routing to satellite if cables are damaged. Mobile roaming for emergency services must be a consideration under the new framework to ensure reliability of services if one network goes down, and it is essential that 1800 numbers work over the selected technology.

The current requirement for fixed line home phones may be less critical if mobile service is available and is recognised as a primary service. We note that redundancy considerations should also be considered given large regions (such as Cape York and Torres Strait) are reliant on a single fibre optic cable for backhaul, with regular instances of failure in recent years, with ad hoc satellite backup in communities.

The Advisory Group recommends that in addition to the above issues, remote monitoring of all network equipment should be in place to ensure rapid reporting and response to faults and that not only are minimum repair times for remote areas reviewed, but that they are supported by community-based technicians who can undertake initial troubleshooting and basic repairs.

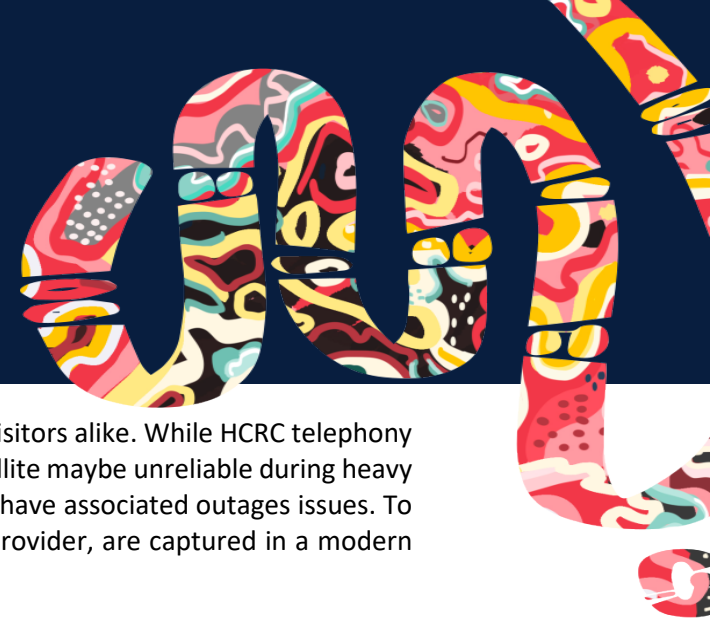
The requirement for providers to ensure that consumers are able to identify services and solutions, including how to access customer support and seek redress, should be captured in a revised framework. We consider that it is essential that any reforms include provisions for First Nations consumer education, in addition to the provision that providers must work with First Nations media to develop a First Nations communication strategy for ongoing community education. Awareness and enforceability are critical issues for government to consider moving forward.

What role do you consider payphones should play in a modern universal service framework?

Through our stakeholder engagement we have heard that First Nations people and communities rely upon payphones as they enable people to make calls when other services are inaccessible, whether through congestion, affordability and availability. It is our recommendation the current structure of two separate payphone programs should be brought under one cohesive program and funding line.

We support the continuation of free public phone services in remote communities and recommend consideration is given to ensuring that regular maintenance and remote monitoring is undertaken. We note that many public phones are operated by NIAA (in partnership with Australian Private Networks) and are not under the same regulation as other services on issues such as maintenance times and reliability. While many of these are Wi-Fi enabled (using Sky Muster Plus Premium as backhaul), congestion continues to be a challenge. We note these payphones, because of their use of Wi-Fi calls, disqualifies these communities from the protections offered by the USO because this technology is not defined and thus excluded from protection.

⁷ <https://www.acma.gov.au/publications/2022-10/report/how-australians-make-voice-calls-home#:~:text=Australians%20who%20have%20a%20mobile,to%2034%25%20in%20March%202022>



We also note that in remote, very remote and homelands, payphones play a vital safety role for residents and visitors alike. While HCRC telephony and public phones are often described as the most reliable of all services where other services delivered via satellite maybe unreliable during heavy cloud coverage; however, batteries and parts in HCRC repeaters have their own reliability issues and therefore have associated outages issues. To ensure resiliency, redundancy, it is essential that all payphone calls, irrespective of technological delivery or provider, are captured in a modern framework, as is the need to capture maintenance and repair of the NIAA payphone network.

How should affordability be considered?

Affordability is a critical foundation for the framework as it is a primary reason given for not having access to voice and broadband services. First Nations people recorded affordability scores of 89.0 in the most recent ADII, which was 6.1 points behind the national average. Evidence suggests First Nations people are disproportionately affected by the cost of telephony and data due to their reliance on mobile-only connectivity (particularly pre-paid services) which cost more per gigabyte than fixed line/post-paid plans.

In our discussions with government and the telecommunications sector, we continue to promote the need for pre-paid primary phone and broadband services to ensure equality of services because of the constraints of low and periodic income for many First Nations people, which means that post-paid plans are not viable. Current pricing effectively imposes a highly regressive tax as lower-income customers, especially First Nations people, pay exponentially higher per gigabyte data rates on prepaid services, especially entry level data top-ups. The framework must therefore consider a mechanism or principal which provides assurance of these dimensions, such as an 'affordability backstop' which puts in place clear principles which assure pre-paid pricing parity. We recommend that a safety net on pricing, including subsidised rates for welfare recipients, should be included in any reform of the framework.

Equitable access is at the centre of affordability issues. Central to delivering better outcomes is addressing the lack of competition in rural and remote areas through the service delivery component of the framework. It is also essential that competition is not viewed through a singular primary service but should combine broadband, mobile and online service access to allow First Nations people to find the right service, at the right price.

Conclusion

The three pillars of digital inclusion – access, affordability and digital ability should be the underlying principle of a modern universal services framework. This means shifting the current framework from it being telco focus, to one that is consumer orientated, embedding protections, resilience and place-based solutions. This review provides a good opportunity to consider how broader regulatory and policy settings can support that goal, noting the underlying importance of empowering First Nations people and communities to identify the connectivity solutions which best meet their needs.

We urge the review to pay particular attention to the Productivity Commission's recent Review of the National Agreement of Closing the Gap⁸ and the Government's commitment to progressing Target 17 of Closing the Gap⁹ in its consideration of a modern framework.

The co-chairs of the Advisory Group, Ms Dot West OAM and Associate Professor Lyndon Ormond-Parker would be happy to meet with relevant Departmental representatives to discuss the issues raised in this submission. The co-chairs can be contacted via FirstNationsDigitalInclusion@infrastructure.gov.au.

⁸ <https://www.pc.gov.au/inquiries/completed/closing-the-gap-review/report>

⁹ <https://minister.infrastructure.gov.au/rowland/media-release/albanese-governments-first-nations-digital-inclusion-plan-released> and <https://ministers.pmc.gov.au/burney/2022/albanese-government-hold-first-nations-digital-inclusion-roundtable>