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Department of Infrastructure, Transport, Regional Development and Communications

Consultation Paper

Telecommunications (Statutory Infrastructure Providers—Standards, Rules and Benchmarks) Determination 2021

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Introduction

The paper discusses draft regulatory requirements for statutory infrastructure providers (SIPs) and the rationale for them as the basis for seeking feedback from interested parties.

First, the paper provides an overview of the SIP regime. Second, it discusses the broad problem the draft requirements are seeking to address. Third, it describes the draft requirements, which are set out in the accompanying draft *Telecommunications (Statutory Infrastructure Providers—Standards, Rules and Benchmarks) Determination 2021*. Fourth, the paper provides questions of particular interest to us. Finally, the paper explains how you can provide comments or contact us for further information.

Submissions are requested by 10am, Monday, 15 March 2021.

Queries and submissions can be directed to us at USG@infrastructure.gov.au

The SIP framework

The SIP arrangements commenced on 1 July 2020 and are set out in Part 19 of the [Telecommunications Act 1997](#).

SIPs are telecommunications carriers that are obliged to provide baseline wholesale broadband services in the areas that they service and support voice services where they operate fixed line and fixed wireless networks.

The SIP arrangements provide that all premises in Australia are able to be connected to a fixed network and access superfast broadband services over that network upon reasonable request.

NBN Co is the default SIP for all parts of Australia. Other network providers can also be SIPs, such as where they have contracts to service premises in a new real estate development. There are currently 18 SIPs serving approximately 400,000 premises in addition to NBN Co. The Australian Communications and Media Authority (ACMA) maintains a [register](#) of current SIPs and service areas. The ACMA is also responsible for monitoring, compliance and enforcement of the SIP arrangements.

While SIPs can offer a range of wholesale services, they must at least offer a standard wholesale service with peak speeds of at least 25 Mbps download and 5 Mbps upload. On fixed-line and fixed wireless networks, SIP wholesale services are also required to support retail voice services.

The SIP arrangements are part of a new consumer protection framework for Australian telecommunications that directs regulation at underlying wholesale networks, while leaving stronger competition to shape consumer outcomes at the retail level.

This framework was explained in our report on [Part B of the Consumer Safeguards Review](#).

The standards, rules and benchmarks would complement NBN Co's commitment in its Wholesale Broadband Agreement (WBA) and proposed new [ACMA rules for the pass-through of NBN Co rebates and transparency of retail commitments](#).

The SIP framework enables the Minister to make standards, rules and benchmarks that SIPs must generally comply with in relation to their operations. Such standards, rules and benchmarks are the subject of this consultation.

Such requirements generally do not have effect where a SIP and a carriage service provider have a pre-existing agreement covering the same matter. This is on the basis regulatory requirements should not cut across pre-existing contractual arrangements. Where this is the case, SIP arrangements would apply when such agreements end, or are varied, with the regulatory obligations required to be reflected in new agreements.

The issues

Networks should meet reasonable community expectations

It is generally accepted that broadband services are now a key part of our everyday economic and social lives. This has been further underlined by the important role they have played during COVID-19 lockdowns. People expect to have ready access to broadband services and for them to operate at a high standard.

While some premises may have access to multiple fixed line networks, many Australian premises are in areas where, because of the economics of supply, the SIP is the sole fixed line provider. As such, both retail service providers and consumers are reliant on SIPs supplying and maintaining telecommunications infrastructure to premises that can deliver quality telecommunications services.

Current service level arrangements

SIPs presently set their service level obligations via commercial processes. However, there are existing arrangements so that terms and conditions for connection and supply are transparent and published¹.

Generally, it is expected that SIPs will seek to build and maintain high quality networks and wholesale services on the basis that this will result in a sustainable business model. There is a risk, however, that in the absence of direct fixed line competition in a service area, there may be reduced incentives for a SIP to continue providing a high level of service over time.

Historically, this risk has been recognised and a Customer Service Guarantee (CSG) was applied to Telstra and others to set baseline service requirements for voice services.

In December 2015, the then Department of Communications and the Arts consulted on draft carrier licence conditions to set baseline requirements for networks operating in new developments. These networks would generally have been covered by the SIP regime. Following that consultation, the Government decided to not proceed with those licence conditions, but rather wait for the passage of the SIP legislation which was then being prepared to achieve the same outcomes, if required.

Objectives

Since the SIP arrangements commenced on 1 July 2020, the Minister and the Department have received a limited number of complaints about the quality of some SIP services. Before the SIP regime started, some similar complaints arose in new developments now serviced by SIPs.

While these issues are not widespread or numerous, the implications for consumers of SIPs providing poor service could be significant. These could go to issues such as delays for connections or repairs, or having services that may perform below what is reasonably expected.

¹ See s360W and s360X of the *Telecommunications Act 1997*

While consumers may sometimes have alternatives like wireless broadband in such situations, consumers should expect that the networks servicing their premises should meet reasonable service and performance expectations, without them facing the inconvenience of finding alternative solutions which may not provide the service expected from their SIP connection and require them to meet additional costs.

Further, a SIP that does not provide high quality wholesale services may have difficulty attracting or retaining retail service providers, potentially reducing consumer choice of retailers and services.

The *Telecommunications (Statutory Infrastructure Providers—Standards, Rules and Benchmarks) Determination 2021* sets out draft minimum requirements for SIPs to provide a baseline of service across all SIP networks, while providing SIPs with flexibility to offer even better outcomes.

Prior consultation

Wholesale service levels have previously been subject to earlier stakeholder consultation, such as through the [Consumer Safeguards Review \(Part B\)](#), and [carrier licence conditions for providers of telecommunications in new developments](#). In preparing this consultation draft, the Department has had regard to these earlier processes, as well as existing instruments such as the [CSG Standard and benchmarks](#), as well as service levels commercially negotiated in the market.

As such, while the Department considers the draft requirements are generally consistent with general industry practices and should not involve significant new costs, it welcomes views on this matter.

A consolidated list of questions is set out later in this document to guide stakeholder responses.

Overview of the instrument

Commencement date

The draft instrument does not specify a commencement date as this is one of the points for consultation. As the instrument is based on a quarterly and financial year reporting cycle, there would be merit in it commencing at the start of a quarter or 1 July. This would mean 1 July 2021 would be a logical starting date. Other commencement dates are conceivable. However, commencement needs to balance putting any safeguards for consumers in place as soon as possible, getting the requirements right, and providing industry and the ACMA with a reasonable time for implementation.

Connections, repairs and appointment keeping

Under the draft instrument, SIPs would be required to meet maximum connection and fault repair times, and to meet agreed appointments made with consumers. These are matters which have historically been dealt with under the CSG for voice services. The proposed timeframes in the draft instrument are summarised on page 10.

For connection standards, the draft timeframes reflect the geographic location of the premises, the type of network deployed in an area by the SIP, and the extent of work that would be required to connect a given premises upon reasonable request². SIPs are expected to connect any premises in

² The Department is currently considering whether SIPs should be given [guidance on what should constitute a 'reasonable request'](#)

their service area, but in some cases, this may involve the SIP needing to install equipment, or extend or augment their existing network.

Fault repair standards include timeframes that vary depending on whether or not the fault requires SIP attendance. Where attendance at a premises is required, fault repair timeframes have regard to the geographic location of the premises, recognising travel times are likely to be longer in regional and remote areas.

The appointment keeping standards are based on SIPs meeting appointments, either based on agreeing a specific time or agreeing appointment windows with customers. These arrangements have been adapted from those provided for under the CSG standard.

Associated annual benchmarks would apply to the connection, fault repair and appointment keeping standards. These draft benchmarks are all set at 90%, noting this reflects the overall performance historically required under existing annual CSG benchmarks, and is also an aggregate performance target typically used in commercial agreements within the industry.

Broadband speed standards

While there are a range of factors that can impact the performance and speeds of retail broadband services, the overall speeds retailers can commit to are dependent on the performance and capacity of underlying wholesale networks. In the draft instrument individual services supplied by SIPs should achieve peak wholesale speeds, and SIPs should meet associated overall benchmarks.

Peak speed standard

The instrument includes a standard providing that eligible services provided by SIPs are to achieve a peak download speed of at least 25 Mbps at least once each 24 hour period, or otherwise at least 50% of any higher download speed offered (whichever is the higher). The drafting however recognises that in some limited cases peak speeds can be impacted by having legacy services running on the same network in the same area.

Benchmarks

SIPs must ensure at least 90% of eligible services in an area meet the peak speed standard each quarter. If not achieved, the SIP is subject to a separate rule to prepare and publish a network remediation plan. This is intended to provide confidence that SIPs will monitor the performance of their networks, and take steps to address systematic issues impacting the achievement of peak speeds.

Transparency of rebates

The draft instrument focuses on both standards and benchmarks to encourage acceptable broader performance, rather than rebates. This is on the basis consumers want networks that deliver to their expectations and this approach will foster investment in network performance.

However, NBN Co has recently elected to negotiate and offer a number of wholesale rebates through its Wholesale Broadband Agreement (WBA4). Other SIPs may also currently offer similar arrangements, or choose to do so in future.

Noting the details of any commercially determined rebates are likely to be of interest to consumers and retailers, and may be subject to [pass through arrangements due to separate rules being](#)

[considered by the ACMA](#), the instrument provides that any such wholesale rebates be transparently disclosed.

Instances where standards cannot be met

The draft instrument sets out some limited cases where it may not be possible or practical for a SIP to comply with the standards. The Department would welcome input and views from stakeholders on whether the range of draft circumstances are appropriate, or if there are additional circumstances which should be considered. SIPs would also be required to advise the ACMA and publish information in cases where they cannot comply with applicable standards. This would provide visibility to retailers and consumers.

Retention of records

SIPs would be required to retain records in relation to connection, repairs, appointment keeping standards and network remediation plans (if applicable). This means data will be available and can be requested by the ACMA if concerns were to arise, either about individual or more systemic performance issues. These requirements are not anticipated to be unduly onerous, as these types of records are expected to be retained by SIPs in any case to manage ongoing operational processes.

Next steps

Subject to consideration of submissions, next steps could include not making an instrument, proceeding to make the instrument along the lines of the consultation draft, or making amendments to the draft instrument.

If significant amendments are made, further consultation may be undertaken.

Preparing submissions

All interested stakeholders are invited to provide a submission to the Department. All submissions must include the name and contact details of the person making the submission and the organisation they represent (if applicable).

All submissions and comments, or parts thereof, will be treated as non-confidential information unless specifically requested, and acceptable reasons should accompany each request. Email disclaimers will not be considered sufficient confidentiality requests.

Respondents lodging a submission should be aware that submissions (excluding any information agreed to be treated as confidential information) will be made publicly available, including on the Department of Infrastructure, Transport, Regional Development and Communication's website. Submissions and comments will be subject to freedom of information provisions. Despite a submission being identified as confidential or sensitive, submissions may be disclosed where authorised or required by law, or for the purpose of parliamentary processes.

Questions that follow below are intended as a guide only. Respondents are welcome to provide more general comments on the issues raised in this paper, and the contents of the draft instrument.



January 2021

Lodging submissions

Submissions can be sent to the following email address: USG@infrastructure.gov.au.

The closing time for lodging submissions is 10:00am (AEDT), Monday 15 March 2021.

Contact us

If you require further information or would like to arrange a discussion prior to making a submission, please contact the Department via the above email address.

Summary of draft requirements

	Urban Pop. of 10,000+	Rural Pop. of 200-9,999	Remote Pop. < 200
Repairs – maximum timeframes			
Attendance not required	1 business day	1 business day	1 business day
Attendance required	Up to 1 business day	Up to 2 business days	Up to 3 business days
Connections – maximum timeframes			
Attendance not required	By next business day	By next business day	By next business day
Type 1 – premises has fixed line network connection and necessary premises equipment	By next business day	By next business day	By next business day
Type 2 – premises has fixed line network connection but needs premises equipment installed to finalise connection (i.e. network termination device)	Up to 9 business days	Up to 14 business days	Up to 19 business days
Type 3 – premises not connected to, but in close proximity to fixed network	Up to 14 business days	Up to 19 business days	Up to 19 business days
Type 4 – premises within coverage of fixed wireless or satellite network and has necessary premises equipment (i.e. satellite dish or antenna)	By next business day	By next business day	By next business day
Type 5 – premises within coverage of fixed wireless or satellite network but needs necessary premises equipment (i.e. satellite dish or antenna)	Up to 9 business days	Up to 14 business days	Up to 19 business days
Other – i.e. not in proximity to existing fixed line network or within coverage of wireless or satellite network	Up to 90 business days	Up to 90 business days	Up to 90 business days
Appointments			
Specific time	Attend at appointment time (or 15 minutes following agreed time)		
4 hour window	Attend during window (or 15 minutes after)		
4-5 hour window	Attend during appointment window (or 45 minutes after)		

Note: Under s360P(1) the *Telecommunications Act 1997*, SIPs generally will connect premises to a fixed-line network where this is reasonable, but may also provide network connections via a fixed wireless or satellite technology solution.

Questions

The draft SIP instrument setting out the individual rules, standards and benchmarks follows at the end of this document. The following questions seek stakeholder views on this proposed instrument.

Question 1

Are the draft individual standards, rules and benchmarks appropriate? Why or why not?

Question 2

Are there any additional matters that you consider should be addressed through standards, rules or benchmark? If so, why?

Question 3

What commencement date for the instrument would be appropriate? What factors should be considered in setting a commencement date if the draft standards, rules and benchmarks proceed?

The Department would also appreciate SIPs responding to the additional questions below. Responses to these questions would support, if needed, preparation of a Regulation Impact Statement (RIS).

Question 4

What wholesale service levels, benchmarks or rebates have you negotiated or offered to date?

Question 5

Would there be any additional costs to your business flowing from the instrument? For example, in terms of infrastructure, operating or staff costs (i.e. training) to comply with the draft standards, rules and benchmarks and associated record keeping requirements? If so, please explain why and how any associated costs have been calculated/estimated.

CONSULTATION DRAFT

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Telecommunications (Statutory Infrastructure Providers—Standards, Rules and Benchmarks) Determination 2021

I, PAUL FLETCHER, Minister for Communications, Urban Infrastructure, Cities and the Arts, make the following Instrument.

Dated

PAUL FLETCHER **DRAFT ONLY—NOT FOR SIGNATURE**
Minister for Communications, Urban Infrastructure, Cities and the Arts

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Part 1 Introductory

1 Name

This Instrument is the *Telecommunications (Statutory Infrastructure Providers—Standards, Rules and Benchmarks) Determination 2021*.

2 Commencement

This Instrument commences on [DATE].

3 Authority

This Instrument is made under section 360U and section 360V of the *Telecommunications Act 1997*.

4 Definitions

Note 1: A number of expressions used in this Instrument are defined in the Act, including the following:

- (a) carriage service provider (section 7);
- (b) connected (section 7);
- (c) eligible service (section 360A);
- (d) qualifying carriage service (section 360A);
- (e) qualifying fixed-line telecommunications network (section 360A);
- (f) qualifying fixed wireless carriage service (section 360AA);
- (g) qualifying satellite carriage service (section 360A);
- (h) qualifying telecommunications network (section 360A);
- (i) relevant service area (section 360A);
- (j) request (section 360A);
- (k) service area (section 360A); and
- (l) telecommunications network (section 7).

Note 2: The expression ‘business day’ is defined in section 2B of the *Acts Interpretation Act 1901*.

(1) In this Instrument:

Act means the *Telecommunications Act 1997*.

appointment-keeping period standard means the standard determined at subsection 10(1) of this Instrument.

attendance connection means, in relation to a request to connect an end-user’s premises to a qualifying telecommunications network, a request that requires attendance by the SIP at the end-user’s premises as part of carrying out the connection.

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attendance fault rectification means, in relation to the rectification of a fault or service difficulty relating to an eligible service or qualifying telecommunications network, a rectification that requires attendance by the SIP at an end-user's premises.

benchmark period means:

- (a) the period from commencement of this Instrument until the end of the financial year during which this Instrument commences; and
- (b) each subsequent financial year.

connection period standard means the standard determined at section 6 of this Instrument.

fixed wireless telecommunications network means a qualifying telecommunications network that is used, or proposed to be used, to supply qualifying fixed wireless carriage services.

fault rectification period standard means the standard determined at section 7 of this Instrument.

non-attendance connection means, in relation to a request to connect an end-user's premises to a qualifying telecommunications network, a request that is able to be fulfilled without any attendance by the SIP at the end-user's premises.

non-attendance fault rectification means, in relation to the rectification of a fault or service difficulty in respect of an eligible service or qualifying telecommunications network, a rectification that does not require attendance by the SIP at an end-user's premises.

peak speed standards means each standard determined at subsection 12(1) and 12(2) of this Instrument.

public authority means:

- (a) the Commonwealth or a State or Territory; or
- (b) a Commonwealth, State or Territory authority, including:
 - (i) a police force or service; and
 - (ii) a fire service; and
 - (iii) an ambulance service; and
 - (iv) a local government authority.

quarter, in relation to a benchmark period, means a three month period ending on the last day of March, June, September and December in each year.

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remote area means a geographical area in Australia other than an urban area or rural area.

rural area means an urban centre, locality or other recognised community grouping in Australia with a population equal to or greater than 200 but less than 10,000.

satellite telecommunications network means a qualifying telecommunications network that is used, or proposed to be used, to supply qualifying satellite carriage services.

SIP or statutory infrastructure provider means a statutory infrastructure provider within the meaning of section 360A of the Act, and depending on the context, may also include the authorised agent or contractor of a statutory infrastructure provider.

SIP Offer means any offer published by a SIP on its website from time to time in accordance with section 360W or section 360X.

type 1 premises means a premises that:

- (a) is situated in a relevant service area; and
- (b) has a physical (or other kind of direct) connection to a qualifying fixed-line telecommunications network owned or operated by the relevant SIP; and
- (c) has necessary network equipment installed by the SIP to provide a qualifying carriage service.

type 2 premises means a premises that:

- (a) is situated in a relevant service area; and
- (b) has a physical (or other kind of direct) connection to a qualifying fixed-line telecommunications network owned or operated by the relevant SIP; and
- (c) does not have necessary network equipment installed by the SIP to provide a qualifying carriage service.

type 3 premises means a premises that:

- (a) is situated in a relevant service area; and
- (b) does not have a physical (or other kind of direct) connection to a qualifying fixed-line telecommunications network owned or operated by the relevant SIP; and
- (c) is in close proximity to a facility forming part of a fixed-line qualifying telecommunications network owned or operated by the relevant SIP.

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type 4 premises means a premises that:

- (a) is situated in a relevant service area; and
- (b) has relevant equipment (such as a satellite dish or antenna) installed within or on it and such equipment enables it to be directly connected to a fixed wireless telecommunications network or satellite telecommunications network owned or operated by the relevant SIP.

type 5 premises means a premises that:

- (a) is situated in a relevant service area; and
- (b) does not have relevant equipment (such as a satellite dish or antenna) installed within or on it; and
- (c) is situated within range, or readily capable, of being connected to, a fixed wireless telecommunications network or a satellite telecommunications network owned or operated by the relevant SIP.

urban area means an urban centre in Australia with a population equal to or greater than 10,000.

urban centre is a reference to a geographic area defined as an urban centre in accordance with criteria used by the Australian Bureau of Statistics for, at the relevant time, the most recent census.

Note: Under paragraph 589(2)(b) of the Act, an instrument made under the Act may make provision in relation to a matter by applying, adopting or incorporating (with or without modifications) matter contained in any other instrument or writing whatever in force or existing from time to time.

- (2) For the purposes of the definition ‘type 3 premises’ at subsection 4(1) of this Instrument, a premises will be considered to be in ‘close proximity’ where it is situated 500 metres or less from any part of the qualifying fixed-line telecommunications network.
- (3) For the purposes of this Instrument, a fault or service difficulty report may be:
 - (a) made by a carriage service provider directly to the relevant SIP; or
 - (b) produced by the relevant SIP through its own self-diagnostic system.
- (4) For the purposes of this Instrument:
 - (a) a fault or service difficulty report which is received or produced; or
 - (b) a connection request which is received;

by the SIP after 5pm on a business day or on a day that is not a business day, is taken to be received (or produced) on the next business day.

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Part 2 Standards

- Note 1: Subsection 360U(1) of the Act provides for the Minister to determine standards to be complied with by statutory infrastructure providers in relation to various matters.
- Note 2: Subsection 360U(4) of the Act provides that a statutory infrastructure provider must comply with a standard determined under subsection 360U(1).

Division 1 Preliminary

5 Application

- (1) A standard determined by section 6, section 7, subsection 10(1) and subsections 12(1) and 12(2) of this Instrument does not apply:
 - (a) where a law of the Commonwealth, State, Territory or local government prevents the SIP from complying with the particular standard; or
 - (b) where compliance with the particular standard would directly result in the SIP being unable to take steps to meet a duty it owes to another person under a Commonwealth, State or Territory law; or
 - (c) during the period where there is scheduled maintenance of, or upgrade to, the qualifying telecommunications network or a facility forming part of that network, and that maintenance or upgrade prevents the SIP from performing activity that is necessary for the SIP to comply with the particular standard, subject to the following conditions:
 - (i) the SIP provides relevant carriage service providers with written notice of the maintenance or upgrade at least 24 hours prior to commencement of the scheduled maintenance or upgrade; and
 - (ii) the SIP:
 - A. provides relevant carriage service providers with written notice; or
 - B. publishes in a prominent place on the SIP's website; detailed information of the expected start and end time of the maintenance or upgrade activity in a format that readily allows relevant carriage service providers to identify individual affected premises; or
 - (d) during the period where there is a loss of power to the relevant premises and that prevents the SIP from performing activity that is necessary for the SIP to comply with the particular standard in respect of that premises; or
 - (e) during the time that there are circumstances beyond the control of the SIP which could not have been prevented or avoided by the SIP taking all

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reasonable steps and those circumstances prevent the SIP from performing activity that is necessary for in order to comply with the particular standard at a relevant location.

- (2) For the purposes of paragraph 5(1)(e) above, circumstances beyond the reasonable control of a SIP are as follows:
- (a) damage to the qualifying telecommunications network or a facility forming part of that network, that is used in connection with the supply (or proposed supply) of an eligible service to the carriage service provider, where that damage is not reasonably preventable, was not caused by the SIP and it prevents the SIP:
 - (i) connecting an end-user's premises to the qualifying telecommunications network; or
 - (ii) rectifying the fault or service difficulty at a particular premises; or
 - (iii) attending the location of a scheduled appointment;
 - (b) a natural disaster or extreme weather conditions that causes mass outages of carriage services and which prevents the SIP:
 - (i) connecting an end-user's premises to the qualifying telecommunications network; or
 - (ii) rectifying the fault or service difficulty at a particular premises; or
 - (iii) attending the location of a scheduled appointment;
 - (c) the SIP is requested by a public authority to provide emergency communications services to assist in emergency action, and the provision of those services directly prevents the SIP:
 - (i) connecting the end-user's premises to the qualifying telecommunications network; or
 - (ii) rectifying a fault or service difficulty at the end-user's premises; or
 - (iii) attending the location of a scheduled appointment;
 - (d) the SIP is prevented from connecting the end-user's premises to the qualifying telecommunications network or rectifying a fault or service difficulty the end-user's premises, or attending the location of a scheduled appointment because the carriage service provider or end-user does not provide essential information or reasonable assistance required by the SIP to carry out the activity.
- (3) If a SIP was prevented from complying with a particular standard as a result of circumstances referred to in subsection 5(1), the SIP must ensure it complies

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with the particular standard from the time that the SIP is no longer prevented from complying with the standard.

- (4) If a SIP was prevented from complying with a particular standard as a result of a circumstances referred to in paragraphs 5(2)(a), (b), or (c) above, the SIP must ensure it complies with the particular standard:
- (a) within 10 business days from the day upon which the circumstances arose; or
 - (b) any other longer timeframe(s) as approved by the ACMA in writing either on a case by case basis or class basis.
- (5) If a SIP was prevented from complying with a particular standard as a result of any of the circumstances referred to in paragraphs 5(2)(a), (b) or (c) above, the SIP must, within 1 business day after becoming aware of the particular circumstances, publish on its website a written notice setting out all of the following:
- (a) a description of the circumstances;
 - (b) a unique identifier for the instance;
 - (c) the actual (or estimated) number of carriage services and end-user premises impacted by the particular circumstances; and
 - (d) the expected date when the SIP is expected to no longer be prevented from complying with the standard, including any longer timeframe approved by ACMA.

Division 2 Maximum periods for connections

6 Connection period standard - maximum period for connection of premises

- (1) The SIP must connect a premises in its relevant service area to the qualifying telecommunications network in order that a carriage service provider can provide qualifying carriage services to an end-user at the relevant premises within the following maximum timeframes:
- (a) for any premises in respect of a non-attendance connection—1 business day from receipt of the request;
 - (b) for a type 1 or type 4 premises in respect of an attendance connection:
 - (i) situated in an urban area—1 business day from receipt of the request;
 - (ii) situated in a rural area—1 business day from receipt of the request;

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- (iii) situated in a remote area—1 business day from receipt of the request;
 - (c) for a type 2 and type 5 premises in respect of an attendance connection:
 - (i) situated in an urban area—9 business days from receipt of the request;
 - (ii) situated in a rural area—14 business days from receipt of the request;
 - (iii) situated in a remote area—19 business days from receipt of the request; and
 - (d) for type 3 premises in respect of an attendance connection:
 - (i) situated in an urban area—14 business days from receipt of the request;
 - (ii) situated in a rural area—19 business days from receipt of the request;
 - (iii) situated in a remote area—19 business days from receipt of the request.
 - (e) in all other cases:
 - (i) situated in an urban area—90 days from receipt of the request;
 - (ii) situated in a rural area—90 days from receipt of the request;
 - (iii) situated in a remote area—90 days from receipt of the request.
- (2) For the avoidance of doubt, the periods specified in subsection 6(1) are maximum timeframes and do not limit a SIP offering to connect a premises in its relevant service area to a qualifying telecommunications network within shorter timeframes.

Division 3 **Maximum periods for rectification of faults or service difficulties**

7 Fault rectification period standard - maximum periods for rectification of fault or service difficulties

- (1) The SIP must rectify a fault or service difficulty in relation to an eligible service supplied by the SIP or its qualifying telecommunications network within the following maximum timeframes:

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- (a) for all non-attendance fault rectifications—1 business day from receipt (or production) of the report:
 - (b) for all attendance fault rectifications:
 - (i) if the relevant premises is located in an urban area—1 business day from receipt (or production) of the report;
 - (ii) if the relevant premises is located in a rural area—2 business days from receipt (or production) of the report;
 - (iii) if the relevant premises is located in a remote area—3 business days from receipt (or production) of the report.
 - (2) For the avoidance of doubt, the periods specified in subsection 7(1) are maximum timeframes and do not limit a SIP's offering to rectify a fault or service difficulty in relation to an eligible service or the qualifying telecommunications network within shorter timeframe.

Division 3 Appointments

8 Appointments for a connection or rectification of a fault or service difficulty

- (1) A SIP may make arrangements with the carriage service provider or with the customer of the carriage service provider (being the *end-user* of a qualifying carriage service supplied by the carriage service provider):
 - (a) to connect the end-user's premises located in a relevant service area to the SIP's qualifying telecommunications network; or
 - (b) to rectify faults or service difficulties relating to:
 - (i) the eligible service supplied (or proposed to be supplied) by the SIP to the carriage service provider in order that the carriage service provider can provide a qualifying carriage service; or
 - (ii) the qualifying telecommunications network used (or proposed to be used), in order that the carriage service provider can provide a qualifying carriage service to the end-user.
- (2) The day, and the time of day, proposed by the SIP for an appointment must be reasonably convenient for the end-user.
- (3) The SIP may propose an appointment:
 - (a) at a particular time of day; or

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- (b) in the period between 2 particular times of day that are not more than 5 hours apart.

9 Changes to period for appointments

Either party to an appointment may change the day, time of day or location of the appointment by:

- (a) giving at least 24 hours prior notice of the change to the other party; or
- (b) obtaining the agreement of the other party to the change.

10 Standards relating to keeping appointments

- (1) Subject to subsection 10(2), the SIP must keep an appointment either to connect an end-user's premises in its relevant service area to rectify a fault or service difficulty experienced by an end-user.
- (2) A SIP is taken to have kept the appointment if the SIP is present at the location of the appointment:
 - (a) where the appointment is for a particular time of day—not later than 15 minutes after the time of the appointment;
 - (b) where the appointment is for a period between 2 particular times of day that are not more than 4 hours apart—not later than 15 minutes after the end of the period;
 - (c) where the appointment is for a period between 2 particular times of day that are more than 4, but not more than 5, hours apart and the site is not in a remote area—at any time within the period; and
 - (d) where the appointment is for a period between 2 particular times of day that are more than 4, but not more than 5, hours apart and the site is in a remote area—not later than 45 minutes after the end of the period.

11 Interpretation for Division 3, Part 2

For the purposes of this Division 3:

- (a) a reference to an end-user includes a reference to someone who is validly authorised to represent the end-user; and
- (b) a reference to a proposed appointment includes a reference to an appointment that is changed in accordance with section 9.

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Division 4 Performance Standards

12 Peak Speed Standards

- (1) Subject to subsection (2), the SIP must ensure that each of its eligible services supplied in a service area meets a daily peak download transmission speed at least once per each 24 hour period. The peak download speed transmission speed is either 25 Mbps or at least 50% of any higher download speed as set out in the relevant SIP Offer (whichever is the higher).
- (2) If the eligible service co-exists with a Co-Existing Service, the alternative daily peak download transmission speed that must be met by the SIP for that eligible service is at least 12 Mbps at least once per each 24 hour period.
- (3) For the purposes of subsection (2), a ***Co-Existing Service*** is one of following carriage services:
 - (a) ADSL (asymmetric digital subscriber line);
 - (b) ADSL2;
 - (c) ADSL2+;
 - (d) SHDSL (single pair high-speed digital subscriber line);
 - (e) ISDN (integrated services digital network); and
 - (f) any other service (other than VDSL (very high-speed digital subscriber line)) covered by the Industry Code entitled, C559:2012 Unconditioned Local Loop Service (ULLS) Network Deployment, as registered by the ACMA.

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Part 3 Performance Benchmarks

- Note 1: Subsection 360U(6) provides for the Minister to set minimum benchmarks in relation to compliance by statutory infrastructure providers with standards.
- Note 2: Subsection 360U(9) of the Act provides that a SIP must meet or exceed a minimum benchmark set by an instrument under subsection 360U(6).

Division 1 Preliminary

13 Overview

This Part 3 of the Instrument outlines the performance benchmarks which each SIP must meet or exceed during the relevant period in relation to the standards specified in Part 2. There are four applicable standards:

- (a) the connection period standards (determined at section 6);
- (b) the fault rectification period standard (determined at section 7);
- (c) the appointment-keeping period standard (determined at subsection 10(1));
- (d) the peak speed standards (determined at subsections 12(1) and 12(2)).

Division 2 Performance Benchmarks – connections

14 Performance Benchmarks for the connection period standard

- (1) For each benchmark period, the minimum benchmark for the connection period standard relating to non-attendance connections at premises situated in any part of Australia is 90% of the total number of non-attendance connections requests received in the benchmark period in all of the SIP's service areas.
- (2) For each benchmark period, the minimum benchmark for the connection period standard relating to attendance connections at premises situated in any part of Australia is 90% of the total number of attendance connections requests received in the benchmark period in all of the SIP's service areas.

Division 3 Performance Benchmarks – fault rectification

15 Performance Benchmarks for the fault rectification period standard

- (1) For each benchmark period, the minimum benchmark for the fault rectification period standard relating to non-attendance fault rectifications at premises situated in any part of Australia is 90% of the total number of non-attendance fault rectification requests received in the benchmark period in all of the SIP's service areas.

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- (2) For each benchmark period, the minimum benchmark for the fault rectification period standard relating to attendance fault rectifications at premises situated in any part of Australia is 90% of the total number of attendance fault rectification requests received in the benchmark period in all of the SIP's service areas.

Division 4 Performance Benchmarks – appointment-keeping

16 Performance Benchmarks for the appointment-keeping period standard

For each benchmark period, the minimum benchmark for the appointment-keeping period standard relating to premises situated in any part of Australia is 90% of the total number of appointments made in the benchmark period in all of the SIP's service areas.

Division 5 Performance Benchmarks—Speed

17 Quarterly Performance Benchmark for the peak speed standards

For each quarter, the minimum benchmark for each peak speed standard for each SIP service area in any part of Australia is 90%, calculated using the following formula:

A divided by **B**,

where:

A is an aggregate figure calculated by summing for each calendar day in the quarter the total number of eligible services in an area that met the applicable peak speed standard; and

B means the total eligible services in the area x the total calendar days in the quarter.

Note: Subsection 18(1) requires a SIP to prepare a network remediation plan if the SIP fails to meet an applicable quarterly performance benchmark for each peak speed standard in any service area.

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Part 4 Rules

- Note 1: Subsection 360V(1) provides for the Minister to determine rules to be complied with by statutory infrastructure providers.
- Note 2: Subsection 360V(2) of the Act provides that a statutory infrastructure provider must comply with a rule made under subsection 360U(1).
- Note 3: A statutory infrastructure provider must publish on its website the terms and conditions on which it offers to connect premises in the services area to a qualifying telecommunications network and supply eligible services in order that a carriage service provider can provide a qualifying carriage service to an end-user at a premises (refer subsections 360W(1) and 360X(1) of the Act).

18 Network Remediation Plans

- (1) Subject to subsection 18(2), if a SIP does not meet an applicable quarterly performance benchmark for a peak speed standard in any service area, then the SIP must, within 20 business days:
 - (a) prepare a network remediation plan for each relevant impacted service area or region (as the case may be); and
 - (b) publish a copy of the plan on a prominent place on its website.
- (2) The requirement under subsection 18(1) does not apply in cases where the SIP subsequently does not meet an applicable peak speed standard in respect of an eligible service and each of the following apply:
 - (a) the eligible service is situated in an area or region covered by a current network remediation plan; and
 - (b) the requirement for the current network remediation plan arose from a prior failure by the SIP to meet an applicable peak speed standard.
- (3) For the purposes of paragraph 18(1)(a), the network remediation plan must be in writing and include:
 - (a) details of the total number, and location, of all eligible services supplied by the SIP in the area, including setting out those services which have not met a quarterly peak speed performance benchmark in the relevant period; and
 - (b) the steps which the SIP will implement, or arrange to be implemented, to the SIP's network(s) used to supply the affected eligible services (for example, a network upgrade, extension or other modifications) to meet the applicable benchmark(s) in the service area within 3 months from the date the plan is issued.

19 Transparency in SIP Offer regarding rebates

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- (1) Each SIP Offer must include clear and transparent terms regarding whether or not the SIP will pay or credit a rebate to a carriage service provider for any failure by the SIP to meet a service level standard about the supply, performance or reliability of an eligible service supplied by the SIP.
 - (2) For the avoidance of doubt, nothing in subsection 19(1) either expressly or by implication imposes an obligation on a SIP to include any term relating to the payment or crediting of rebate of any kind (however described) in a SIP Offer.

20 Record keeping – service connection

A SIP must, in relation to all connection requests it receives in respect of premises situated in its service areas, keep a record of the following matters:

- (a) the date and time at which the request was received and the name of the carriage service provider who made the request on behalf of an end-user;
- (b) the location of the particular premises that is the subject of the connection request;
- (c) a unique service identifier for the premises at paragraph 20(b) above;
- (d) the applicable connection period in business days;
- (e) the date and time at which the connection period standard expires in relation to the connection request;
- (f) the date and time at which the SIP completed the connection;
- (g) if circumstances reasonably beyond the control of the SIP or a law of the Commonwealth, a State or Territory or local government prevent it from complying with the connection period standard:
 - (i) a description of those circumstances or name of the law (as applicable);
 - (ii) the reason why those circumstances or law (as applicable) prevent the SIP from complying with the standard;
 - (iii) the date on which those circumstances arose or the SIP became prevented from complying by reason of the law;
 - (iv) the date and time at which the circumstances or law (as applicable) ceased to prevent the SIP from complying with the standard; and
- (h) the type of premises and whether it is located in:
 - (i) an urban area;
 - (ii) a rural area; or
 - (iii) a remote area.

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21 Record keeping – fault or service difficulties

A SIP must, in relation to each report that it receives or produces, in respect of a fault or service difficulty in respect of premises situated in its relevant service areas, keep a record of the following matters:

- (a) if the SIP produced a report of the fault or service difficulty—the date and time at which the report was produced;
- (b) if the SIP received a report of the fault or service difficulty:
 - (i) the date and time at which the report was received; and
 - (ii) the name of the carriage service provider who reported the fault or service difficulty;
- (c) the location of the particular premises experiencing the fault or service difficulty;
- (d) a unique service identifier for the premises at paragraph 21(c) above;
- (e) a description of the nature of the fault or service difficulty;
- (f) the rectification period in business days;
- (g) the date and time at which the fault rectification period expires in relation to the fault or service difficulty;
- (h) the date and time at which the SIP rectified the fault or service difficulty;
- (i) if circumstances reasonably beyond the control of the SIP or the law of the Commonwealth, a State or Territory or local government prevent it from complying with the fault rectification period standard:
 - (i) a description of those circumstances or name of the law (as applicable);
 - (ii) the reason why those circumstances or law (as applicable) prevent the SIP from complying with the standard;
 - (iii) the date on which those circumstances arose or the SIP became prevented from complying by reason of the law;
 - (iv) the date and time at which the circumstances or law (as applicable) ceased to prevent the SIP from complying with the standard; and
- (j) the type of premises to which the report relates and whether it is located in:
 - (i) an urban area;
 - (ii) a rural area; or
 - (iii) a remote area.

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22 Record keeping – network remediation plans

In respect of each network remediation plan that a SIP is required to prepare in accordance with subsection 18(1), the SIP must retain records of the following matters:

- (a) each network remediation plan prepared;
- (b) the percentage of eligible services which have been remediated during the course of the period covered by each network remediation plan;
- (c) the SIP's implementation and fulfilment of each plan.

23 Record keeping – appointment keeping

A SIP must, in relation to each appointment it arranges, keep a record of the following matters:

- (a) the agreed date and time of the appointment;
- (b) details of any changes to the appointment, including when the change was agreed;
- (c) whether the appointment was for the purpose of connection or fault rectification;
- (d) the location of the particular premises to which the appointment relates;
- (e) a unique service identifier for the premises at paragraph 23(d) above;
- (f) if circumstances reasonably beyond the control of the SIP or the law of the Commonwealth, a State or Territory or local government prevent it from complying with the appointment keeping period standard:
 - (i) a description of those circumstances or name of the law (as applicable);
 - (ii) the reason why those circumstances or law (as applicable) prevent the SIP from complying with the standard;
 - (iii) the date on which those circumstances arose or the SIP became prevented from complying by reason of the law; and
 - (iv) the date and time at which the circumstances or law (as applicable) ceased.

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24 Period for retention of records

If a SIP is required to keep a record of any matter described in sections 20-23 (inclusive), the SIP must retain that record for a period that expires no earlier than two years after the end of the relevant benchmark period.