



21 January 2019

Submission to Department of Communications and the Arts' Consumer Safeguards Review - Part B / Reliability of Services

MyRepublic welcomes the opportunity to provide comment on Part B of the Department of Communications and the Arts (DoCA) Consumer Safeguards Review in relation to the reliability of telecommunications services.

MyRepublic was formed in Singapore in 2011 where our launch resulted in us being the first to offer 100Mbps residential and small business connectivity at a mass market price on Singapore's own NBN. Since then we've launched businesses in New Zealand (leveraging the UFB network) and in Indonesia (essentially as a private NBN). As you will be aware our Australian business commenced offering services in late 2016. MyRepublic now offers 1Gbps residential and small business broadband and voice services in Singapore and New Zealand (up to 300Mbps in Indonesia and 50Mbps and 100Mbps plans in Australia). Last year MyRepublic launched mobile services in Singapore as an MVNO to supplement our broadband business and we have publicly stated that we wish to offer similar services in Australia and New Zealand.

Although still a relatively new entrant to the Australian market (it's been a little over two years since we launched nationwide), we have established ourselves as a challenger retail brand in the eyes of the consumer and we understand the importance of offering a superior customer experience in order to attract and retain business versus the established large incumbent providers.

MyRepublic has actively contributed to both the Communications Alliance and Compete submissions on this topic and we support the views represented in both papers. This MyRepublic submission focuses on the aspects that are of greatest concern to us.

Overview

MyRepublic agrees broadly with the stated principles and supports their promotion, but we foresee issues with some of the detailed aspects (listed as bullet points in the consultation document) used to explain each proposal.

For example one of the concepts included in an explanation of Proposal 2 (Providers must focus on keeping customers connected to a service if timeframes cannot be met) states that where a service cannot be connected or fixed within the maximum allowable timeframe, the retail service provider is obliged to offer a backup or alternate service at no additional cost. Such a requirement, if adopted, is likely to severely impact all retail service providers without a mobile service and significantly favour fixed line retail service providers that are also mobile network operators. The inequity that would stem from such a move would be strongly opposed by MyRepublic, as it would have a significant detrimental effect on our ability to win customers and we would argue that from a

consumer perspective their choice of provider will be limited versus the range of providers currently available.

This is not the only example where we believe more thought needs to be applied to the detail that sits behind each proposal.

We therefore strongly encourage the DoCA to engage further with industry on the proposals to ensure they support the principles as well as promote a vibrant, competitive retail market for telecommunications services so that all consumers can take advantage of new technology such as that provided by both the NBN and 5G mobile services.

Principle 1: Telecommunications is an essential service, and the entire industry needs to be responsible for keeping consumers connected

MyRepublic agrees that telecommunications is an essential service and that in a structurally separated market it is imperative that the wholesale network provider and the retail service provider are perfectly aligned in order to ensure the service is able to be relied on in that manner.

In our experience, the Australian NBN and retail service providers appear to be the least aligned wholesale and retail provider relationship across the region when compared to the other NBN markets in which we operate. This may be a reflection of the state and current stage of the NBN rollout, but the relationship NBN has with retail service providers in the delivery of this essential service definitely needs to become more focused on the end-user consumer. It will require a level of accountability, transparency and maturity that we have yet to see in this market.

It is also important to note that some retail service providers are wholly reliant on the upstream network provider and can only provide solutions based on what the wholesale network provider makes available to them and operate the aspects that are within their control.

Principle 2: Consumer safeguards are best delivered through direct regulation to support public policy

MyRepublic disagrees with this principle as direct regulation should only be applied to address market failure. Industry regulation, best practice and commercial arrangements can and often do provide consumer protection and benefits, against the threat of direct regulation should the voluntary, or commercial arrangements fail.

Principle 3: Consumers should get what they pay for

MyRepublic agrees that this fundamental principle must be upheld, but we note that like most other jurisdictions this principle is enshrined in Australia's existing consumer law. The accompanying comment that consumers should not be billed if they are not connected on time, or for any periods when they do not have a working service is of concern. Although this is a seemingly natural extension of the principle, we would need to be careful about implementing such a requirement due to the nature and current practices regarding billing for telecommunications services. As the DoCA is aware, many telecommunications services are billed in advance rather than arrears and due to the structurally separated nature of most of the fixed line market, most services have an underlying network services charge that is borne by the retail service provider in the delivery of any consumer service. Both of these factors would impact a retail service provider's efforts to implement a

deferral of all charges or bills in such cases every time. This is not to say that the concept could not be applied in some other manner, but it is our request that the industry be engaged to workshop the likely use cases, rather than simply implement regulation in this regard.

Proposal 1—Mandatory rules will cover how consumers and small businesses are connected, and stay connected to fixed telecommunications networks, including appointments.

It is MyRepublic's view that if regulation becomes too prescriptive in this regard then the ability for retail service providers to differentiate themselves and win business based on their service model is likely to be compromised. Such a reduction in competition through service differentiation could mean that consumers become worse off. Direct regulation should only be implemented where the industry has failed.

Proposal 2—Providers must focus on keeping customers connected to a service if timeframes cannot be met

Although the intent of this proposal could be described as noble and well-intentioned, it is MyRepublic's view that it is impracticable in many respects and also inequitable, as it favours large fixed line retail service providers that already offer mobile services.

Every aspect of the supporting detail behind this proposal presents an issue that would need to be overcome to ensure the proposal was workable:

1. The requirement to provide an alternative method of connection where initial connection and fault resolution timeframes are not met, clearly favours those retail service providers that already offer an alternative service (as outlined earlier in our submission)
2. The fact that the consumer must be told at the time of purchase what their alternative service would be if their connection or fault resolution is delayed means that those that do not have access to such a service and are unable to put a solution in place in time, may have to halt all sales until an alternative can be found, and if one cannot, presumably they must exit the market for fixed line services.
3. As a provider would be unable to decline to offer a priority assistance type service, the additional cost of developing and offering such a service would be incurred by the retail service provider and they in turn would need to find a way to recover such a cost, presumably by spreading this cost across their base, thereby increasing prices for all consumers.
4. The concept that the network provider, if they're responsible for a delayed connection or fault resolution, will reimburse the retail service provider, seems sensible on first brush, but when one considers that this additional cost will vary greatly depending on whether the retail service provider is an MNO, has an MVNO, or has no alternative but to offer a retail service, it begs the question as to whether such an idea is practicable. For example, how would this cost be determined or arbitrated, if necessary, where the network provider disputes culpability, or disagrees with the cost? Meanwhile any additional cost is borne by the retail service provider, which is most likely to disadvantage the smaller providers, as the large providers can either more easily absorb the cost due to scale or not incur as high a cost due to having their own mobile offering.

5. The requirement to pay any consumer \$100 for any missed appointment seems straightforward, but how will that payment be made by a network provider, where they are responsible, when they have no commercial relationship?

MyRepublic feels that this proposal has been ill-considered and lacks a pragmatic, achievable implementation plan, when we could simply place greater emphasis on connection and fault resolution service levels being clearly understood and met by the responsible provider, network or retail.

Issues for Comment

1. Are the proposed timeframes to connect or repair a service reasonable?

Yes, but NBN should be consulted and need to be sufficiently resourced and incentivised where the connection issue or repair is related to the network. Any timeframe needs to also take into account the retail service provider's need to liaise and/or coordinate the upstream provider activity where they are involved.

2. Will the proposed arrangements and penalties for missed appointments provide suitable incentives for industry?

The imposition of such a regime is of itself burdensome, regardless of the amount of compensation. There is also a risk the overall cost of administering any such regime is just passed on to all consumers via increased monthly fees for the service.

3. Are there other options that could help maximise service continuity for people with a diagnosed life threatening medical condition?

Compensate the retail service providers that do offer Priority Assistance, rather than forcing all retail service providers to offer the service as this simply drives additional cost and increases the barrier to entry for competitors.

4. Should providers be able to seek approval from the ACMA to offer services with different reliability timeframes on a product by product basis (which if approved would then become binding)? If so, what process and criteria would best support this?

To make retail service providers seek approval from ACMA to differentiate their service will ultimately result in a commodity market where competitor providers can only compete on brand (which favours the large well-known providers) and price. Such a limitation would rob consumers the right to select the product that has reliability timeframes that suit them.

5. Should consumers be given the option to exit their service contract without penalty where frequent or recurring faults occur?

Potentially, but retail service providers would expect to be compensated by the upstream provider where the frequent and recurring faults are network related.

6. How can industry best ensure consumers are not left without a working fixed connection for lengthy periods? What alternative service arrangements are reasonable?

Agree and state service levels in consumer agreement and provide agreed compensation and/or provide right to terminate for persistent breach, but any and all cost associated with such remedial action must be borne by the responsible party.

Alternative service arrangements should not be mandated as many small service providers do not have alternatives available, and those who do should continue to be able to differentiate themselves to consumers that lack trust in the fixed connection.

Ultimately the best remedy is to ensure the fixed connections for every consumer are fit for purpose and any faults are rectified in a timely manner. This requires cooperation and transparency from each of the providers involved and responsible for the delivery of the service.

Principle 4: Network reliability is an important purchasing consideration and should be transparent.

MyRepublic broadly agrees with the principle, but would want to see duplication and the costs associated with reporting or publishing this information minimised. Network provider information should be made available, potentially in real-time, to all retail service providers regardless of their size or level of sophistication to ensure that this information is distributed to consumers clearly and consistently.

Proposal 3—Network infrastructure providers that support the supply of retail services to consumers will be required to publish network reliability metrics and to report to the ACMA on network performance.

MyRepublic agrees consistent network reliability metrics and their publication will help retail service providers educate consumers on network performance. MyRepublic would suggest that this reporting by network providers must be broken down by access technology for it to be sufficiently meaningful and useful.

Issues for Comment

1. What information on network reliability is most meaningful and valuable to consumers?

The risk with publishing network reliability data is that it won't be understood or is misinterpreted by consumers, but the simplest service levels that provide the most insight are service availability and service restoration time. In the case of NBN, due to the multiple access technologies deployed, these service levels would need to be measured and reported for each access technology.

2. How should network reliability information be made publicly available, and how often should providers be required to report to the ACMA?

In the case of NBN, network reliability information could be published on its website and made available in such a form that retail service providers could publish it too, clearly denoting it has been provided by NBN. Retail service providers could also include network availability information, including outage notification and resolution timeframes, on their websites, but rather than being required to report this information to the ACMA, ACMA should simply rely on reports from NBN - these could be supplied monthly or quarterly.

3. If and how should consumers be advised of major outages and timeframes for remediation?

Rather than mandating the method of notification of outages and resolution timeframes to consumers, this should remain at the discretion of the retail service provider. Some retail

service providers provide SMS alerts to consumers via subscription services and include “live” updates or notifications on their websites. Those that share such information with their customers will benefit by building trust, as their customers will likely value this and it represents a competitive advantage for the retail service provider.

There may be merit in requiring NBN to notify outages and resolution timeframes in a prescribed manner or at least ensuring the same information is made available in a timely manner to all retail service providers and that they can then easily convey it to their customers - beyond simply updating their website, this could include providing retail service providers with API access to their back end network management systems.

Principle 5: Arrangements should incorporate public accountability and transparency.

MyRepublic is of the view that there is benefit in publishing some data, but the amount of data and its collation and reporting should be limited to that which can provide meaningful information to consumers. The network provider should be the starting point for all network data and retail service providers simply asked to enhance this data with their own, to the extent their aspect may provide more information and a better picture of the industry’s performance.

Principle 6: Data collection, analysis and reporting should drive improved outcomes.

MyRepublic supports a data-led approach to addressing such issues, but parties need to be awake to the risk of such data being manipulated and/or misinterpreted. Appropriate controls and checks must be implemented to ensure the information and conclusions drawn are accurate and representative of the issues.

Proposal 4—The ACMA will be responsible for the collection of data relating to fixed connections, repairs and appointments, with reporting obligations applying at both wholesale and retail level. The ACMA will publish the results.

MyRepublic supports a consistent approach to data collection but it must minimise the time it takes to collate data or produce reports and not result in additional cost for the retail service provider. Small retail operators will likely not have the capacity, skills or confidence to collate data and produce reports on a regular basis, so their role must be limited to filling in any gaps in the network provider reporting. Reporting timeframes should also be meaningful and achievable for small retail service providers.

Issues for comment

1. What industry data should be provided to the ACMA for analysis and reporting, and how often should this be provided (for example, monthly, quarterly)?

Time to connect, time to repair and missed appointments for each access technology. NBN should provide this data and only have it supplemented as required by retail service providers. Note all three measures can be gamed, and probably will be, to present a more favourable situation, so suitable controls and checks will need to be in place to ensure the integrity of reporting.

2. How often should the ACMA publish reports and analysis (for example, monthly, quarterly or half yearly)?

Depends on the total effort required across all organisations involved, including the ACMA itself, NBN and the retail service providers.

General issues for comment

1. Do the proposals in this paper address the major issues of concern with the current framework for reliability of services? If not, what additional measures could be included?

Service reliability for fixed services has improved over the last 12 months, as NBN has undertaken significant measures and steps to address its widely reported shortcomings and although they still have considerable work to do to continue this transformation, we do not think it is necessary nor fair to conclude that the retail service provider community is also culpable. Therefore any measures that add additional obligation or cost to retail service providers are unwarranted.

The only additional measures suggested would be to ensure the ACMA receives all the information necessary directly from NBN, rather than seeking all the information it can think of in a scattergun approach from all industry participants

2. Are there any unforeseen issues or unintended consequences of the proposals?

Potential to drive some small retail service providers out of business with some aspects of these proposals, or at the very least result in increased prices for consumers due to the greater compliance costs associated with offering the services.

3. What considerations should be taken into account in implementing the proposals outlined in this paper (based on forecast completion of the NBN rollout by 2020), including practical timeframes for implementation?

Proposals as drafted include many varied comments, options and possibilities and are not presented in a coordinated or detailed manner, which suggests they are more ideas grouped together rather than part of an overall strategy. We would therefore suggest that the DoCA engage again with the industry once feedback from this first round of consultation is received and digested.

A couple of observations worth noting is that the DoCA and the ACMA need to be cognisant of the fact that the NBN network is still being rolled out and therefore the concerns and issues of today differ somewhat to those that we can anticipate once the rollout is completed in 2020. This consultation document also remains silent on the issues presented by the mixed access technology solution deployed by NBN. The issues and concerns regarding reliability differ greatly from one fixed access technology to another, and we therefore strongly recommend that this is taken into consideration and addressed as part of this review.

4. Are there any other issues that should be brought to the Government's attention?

A foundation principle of the NBN policy was that the NBN would be the single national access network. It would provide services on a wholesale-only, non-discriminatory basis to encourage the entry of retail competitors on a level playing field. Although well intended, proposals such

as those outlined in the consultation document have the potential to limit and stifle competition thereby restricting innovation.

MyRepublic would like to thank the DoCA for granting us an extension and providing the opportunity to comment on this review and we look forward to participating in subsequent sessions on the topic of the Consumer Safeguards Review.

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