

Chair and Agency Head

Committee Secretary
Senate Standing Committees on Environment and Communications
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ACMA file reference ACMA2023/623

Dear Secretary

ACMA submission to the Inquiry into the Optus Network Outage

The Australian Communications and Media Authority (ACMA) is the independent statutory authority responsible for the regulation of broadcasting, radiocommunications, telecommunications and some online content in Australia.

The ACMA recognises the broad impact of the prolonged Optus outage on 8 November 2023 on individuals, businesses, particularly small business, and government services.

This submission focusses on the regulatory obligations currently within the ACMA's remit— access to Triple Zero services by Optus' customers during the outage. It covers relevant regulatory obligations and ACMA actions to date, including the commencement of a formal investigation into Optus' compliance with these obligations.

Regulation of the Triple Zero Emergency Call Service

The emergency call service plays a fundamental role in the safety of the Australian community. It gives people access, free-of-charge, to police, fire or ambulance services in life-threatening or time-critical situations from any fixed or mobile phone (where there is mobile network coverage) and most satellite phones in Australia.

The key regulatory arrangements governing the emergency call service are set out in the [Telecommunications \(Emergency Call Service\) Determination 2019](#) (the Determination) made by the ACMA. It imposes requirements on carriers, carriage service providers (CSPs) and the emergency call persons in relation to access, carriage and handling of calls to the emergency call service. Amongst other matters, this includes requirements for carriers to allow emergency calls to be connected to the emergency call person (ECP) in circumstances where a mobile network experiences an outage and an alternative mobile network is available. These are colloquially referred to as emergency 'camp-on' arrangements. It also includes notification and post-event customer care requirements.

There are tightly limited exemptions from the Determination's requirements that recognise some matters may be beyond the control of the carrier or CSP.

The ACMA is responsible for enforcing compliance with the requirements of the Determination.

ACMA actions on the day of the outage and to date

The ACMA received notification at 7.02 am on Wednesday 8 November 2023 from Optus that a significant network outage was adversely affecting the carriage of emergency calls over the Optus network before handover to the emergency call person and that a national outage was affecting its mobile and fixed services.

The ACMA's immediate focus was to understand the situation and to work with Optus and the ECP—Telstra—to understand how the issues were impacting Optus' customers and their ability to make emergency calls.

Throughout the day, the ACMA was in contact with Optus, the Office of the Minister for Communications, the Department of Infrastructure, Transport, Regional Development, Communications and the Arts (the Department), Telstra, the Telecommunications Industry Ombudsman and Communications Alliance. ACMA staff also attended a National Coordination Mechanism Meeting convened by the Department of Home Affairs and the Department.

These contacts were predominantly to determine the status of emergency call service arrangements during the outage and advice on Optus' statutory requirements. Optus during the course of the day issued statements on access to Triple Zero services, including that these could not be contacted on Optus landline networks (where no alternative arrangements were available) and that there were intermittent issues with some mobile services when undertaking emergency 'camp-on' to other mobile networks.

At 4.13 pm on 8 November, the ACMA was notified by Optus that the network outage had been fully resolved at 4 pm.

Once a network is restored after a large outage, telcos are required to conduct welfare checks on people who have tried calling Triple Zero during the outage if they were unable to connect to the service. Immediately after the outage was resolved, we actively monitored Optus' progress of these welfare check processes.

In parallel to the above activities, the ACMA commenced an initial assessment to understand where the outage triggered concerns about Optus' compliance with the regulatory obligations to inform a potential investigation.

ACMA formal investigation

On Monday 13 November 2023, the ACMA formally opened an investigation under the *Telecommunications Act 1997* (the Act) into compliance with the Determination, the Act and *Telecommunications (Consumer Protection and Service Standards) Act 1999* (the TCPSS) of five Singtel Optus Pty Ltd subsidiaries: Optus Mobile Pty Limited, Optus Networks Pty Limited, Optus Internet Pty Limited, Optus Mobile Migrations Pty Limited and Optus ADSL Pty Limited.

Optus was notified of the investigation commencement on the day it was opened.

The ACMA's investigation will focus on the following requirements on carriers and/or CSPs under the Determination:

- > to provide assistance to one another (emergency 'camp-on') (section 10)
- > that networks and facilities give an end-user access to emergency call services (section 14)
- > that end-users who make an emergency call are given access to the emergency call service (sections 15 and 17)
- > to ensure that an emergency call is carried to the relevant termination point for the call (section 19)
- > to notify the emergency call person as soon as possible about a significant network outage (section 27)
- > to undertake a welfare check on an end-user who made an unsuccessful emergency call during a significant network outage (section 28)
- > to cooperate with the emergency call person during a disruption to the emergency call service (section 29).

The investigation will also consider section 148(1) of the TCPSS Act which requires carriers and CSPs to comply with the Determination, and sections 68 and 101 of the Act which requires carriers and CSPs to comply with carrier licence conditions and service provider rules.

The ACMA has a range of enforcement options available when assessing a potential breach of the Determination including:

- > Issue a formal warning
- > Issue a remedial direction
- > Issue infringement notices; and
- > Accept a court-enforceable undertaking
- > Commence civil penalty proceedings in the Federal Court

In order not to prejudice its outcomes, we will not be commenting further on, nor speculating about any potential outcomes of, the investigation while it proceeds. We will make our investigation public once concluded.

I hope this information is useful to the Committee, we would be happy to provide further information as its Inquiry progresses.

Yours sincerely

Nerida O'Loughlin PSM
17 November 2023