



Australian Government

Department of Communications and the Arts

# Consumer representation: Review of section 593 of the *Telecommunications Act 1997*

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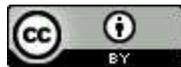
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## Background to section 593 of the *Telecommunications Act 1997*

The Department of Communications and the Arts (DoCA) is conducting a review of the effectiveness of section 593 of the *Telecommunications Act 1997* (Telco Act), with reference to the most recent grants of financial assistance provided to the Australian Communications Consumer Action Network (ACCAN).

Under section 593, which was enacted in 1997, the Minister may make grants of financial assistance to:

- a consumer body for purposes in connection with the representation of the interests of consumers in relation to telecommunications issues; and
- a person or body for purposes in connection with research into the social, economic, environmental or technological implications of developments relating to telecommunications.

The funding of these grants is fully recovered by the Australian Communications and Media Authority (ACMA) as a component of the annual carrier licence charges on eligible telecommunications carriers.

The primary policy objective of section 593 is to ensure the interests of consumers are taken into account by the telecommunications industry, governments and regulators. Independent research into relevant telecommunications issues is intended to inform Government policy positions.

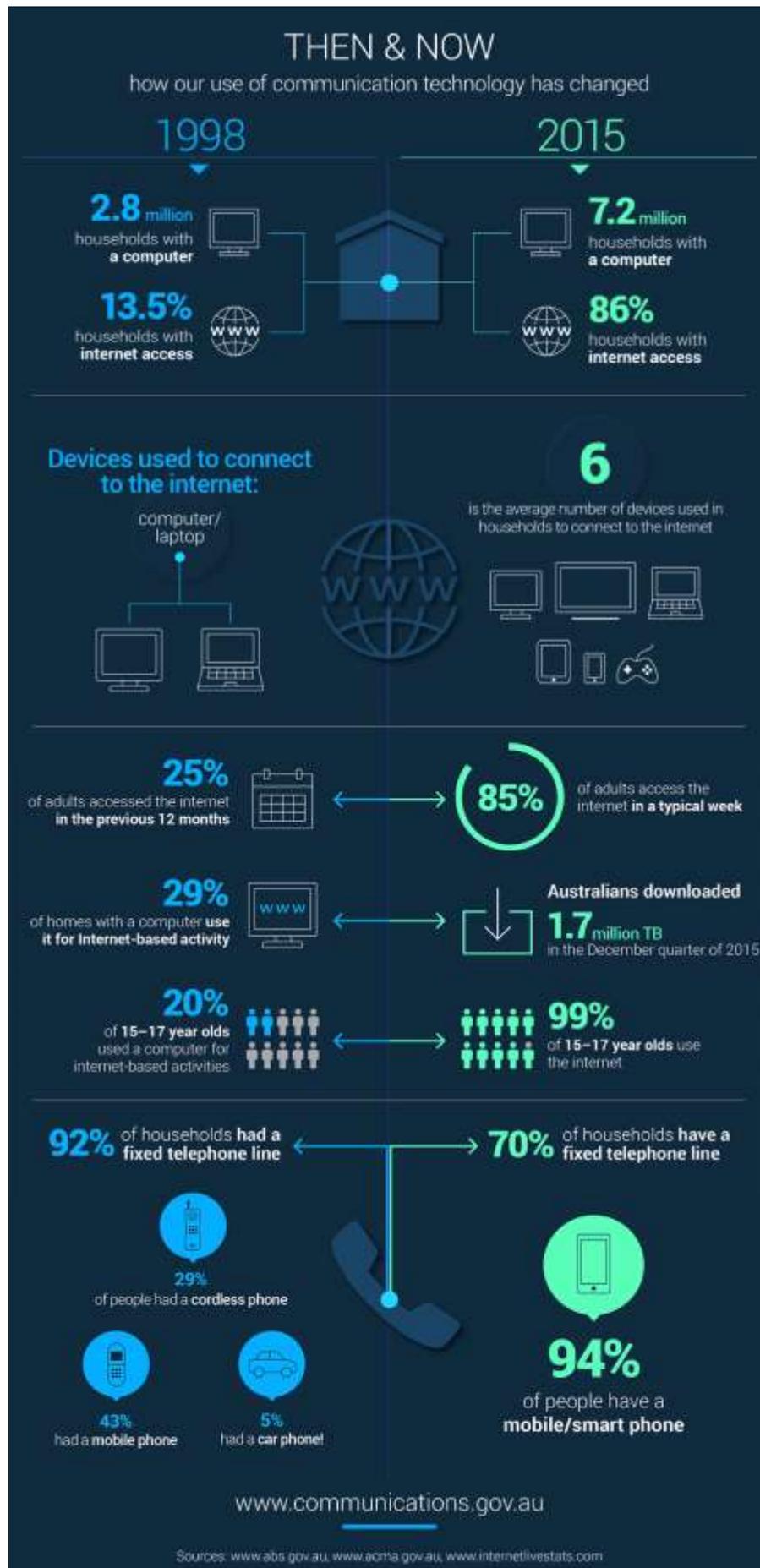
Between 1997 and 2009, grants were allocated to a number of consumer representative organisations, including the Consumers Telecommunications Network (CTN), the Small Enterprise Telecommunications Centre Limited (SETEL) and Telecommunications and Disability Consumer Representation (TEDICORE).

ACCAN was formed in 2009 to address a widely held concern that there was a fragmented consumer representation sector with competition between consumer representative bodies, not only for funds but also in terms of input to industry and government processes. CTN, SETEL and TEDICORE ceased operations and became a part of ACCAN when it was formed in 2009.

Since the time of its formation ACCAN has been the sole recipient of funding allocations under section 593 of the Telco Act through two multi year funding agreements. In 2012, the Commonwealth entered into the second multi year funding agreement with ACCAN. Indexed funds of around \$2 million (GST exclusive) per annum are provided under that agreement, including approximately \$250,000 per annum for a grants program administered by ACCAN, which incorporates research. The agreement has a five year term and expires at the end of May 2017.

## Scope of review

Significant changes have occurred in the communications sector over the past 20 years and these are well documented. The following infographic highlights some of the changes in the communications sector since 1998, when the initial funding arrangements under section 593 of the Telco Act were put in place.



In light of these significant sector changes, it is an appropriate opportunity to assess whether section 593 of the Telco Act is still fit for purpose and whether the existing funding arrangements in place with ACCAN should be renewed or changed. The review will consider, amongst other issues:

- whether section 593 of the Telco Act should be retained, and if so whether it should remain in its current form or be amended; and
- subject to the point above, whether further grants should be made under section 593 of the Telco Act on the expiry of the current ACCAN multi year funding agreement and, if so, how and to whom those further grants should be allocated.

The review will not consider changes to the use of the annual carrier licence charges to fund grants provided under section 593 of the Telco Act.

DoCA will provide a report to the Minister with its recommendations following the completion of the consultation process.

## Issues

### 1. Consumer representation

The first issue to be considered is whether it is appropriate for Government to continue to fund, under section 593(1) of the Telco Act, a consumer body for purposes in connection with the representation of the interests of consumers in relation to telecommunications issues. In considering this issue it is appropriate to look at the role that ACCAN has performed to date, whether other bodies could perform the role that ACCAN has played and also other methods which could be adopted by Government to ensure that the views of consumers are adequately considered in policy making.

ACCAN has undertaken a significant amount of consumer representation work. For example, between 2012 and 2015, ACCAN represented telecommunications consumers on 36 government, industry and member committees, including the Australian Competition and Consumer Commission (ACCC) Consumer Consultative Committee, the ACMA Consumer Consultative Forum, the DoCA Stay Safe Online Week Steering Group, the NBN Co Public Information on Migration (PIM) Consumer Working Group, the Telstra CEO and Consumer Roundtable and Communications Alliance Working Groups. During the same period, ACCAN also made submissions on behalf of consumers to over 100 inquiries and consultations, engaged with Government and industry on over 30 issues and developed 11 standalone consumer policy positions.

Consumer representation work involves effective engagement with a range of stakeholders including government agencies, industry and other consumer groups, to ensure the interests of consumers are protected and promoted. ACCAN has over 100 member organisations and holds regular meetings with industry groups, including Communications Alliance and the Australian Mobile Telecommunications Association (AMTA), as well as peak bodies such as the Coalition of Small Business Australia. As noted above, ACCAN also consults with government agencies and regulators. Views are sought on the effectiveness of ACCAN's engagement with stakeholders, in performing its consumer representative role.

On occasion, the diverse interests represented by ACCAN mean that it is difficult to develop a united position on issues to accurately represent the breadth of consumer interests. A lack of consensus among its members can result in ACCAN not supporting a proposal – for example, after participating in negotiations, ACCAN did not endorse the Telecommunications Consumer Protections Code in 2012.

There are a number of smaller groups that play a role in representing and supporting Australians on telecommunications issues. For example, the Isolated Children's Parents' Association (ICPA), Better Internet for Rural Regional and Remote Australia (BIRRR) and various federations and associations of farmers play a role in representing regional consumers regarding telecommunications issues. The creation of these groups may suggest that regional consumers are seeking additional support and advice on telecommunications issues above that which ACCAN is able to provide.

Although ACCAN is Australia's peak consumer organisation on retail telecommunications services issues, there are a number of other general consumer representative bodies that contribute to various policy issues relevant to consumers, including in the area of telecommunications. These organisations include the Consumers' Federation of Australia, CHOICE and the Consumer Action Law Centre.

It may be possible for consumer representation to be undertaken by a general consumer body rather than a telecommunications specific body. For example, in the past, CHOICE represented the interests of telecommunications consumers during the development of the Copyright Notice Scheme Code, noting that ACCAN also contributed to the development of this Code. Views are sought on whether a general consumer organisation would be able to sufficiently cover the range and complexity of telecommunications issues and develop relationships with government, industry and regulators.

There is also the question of whether focus should be given to consumers with particular needs such as those with a disability, those with culturally and linguistically diverse backgrounds, low-income earners, Indigenous Australians and those living in regional or remote Australia. For example, would it be more appropriate for Government to fund a consumer body to represent only such interests, on the basis that 'average' consumers would be sufficiently well protected by general consumer representative bodies. Alternatively, a focus on issues that only affect particular groups may mean a consumer advocate would be seen as less effective.

Government funding of a consumer representative body is not the only model that could be adopted to ensure that consumer views in policy deliberations are fully considered. For example, in New Zealand and Canada, equivalent funding is not currently provided. As an alternative approach, Government could undertake its own direct surveying and consultation, for example, through the Bureau of Communications Research (BCR) within the DoCA.

### Questions for consideration

1. Has ACCAN effectively performed the role of representing the interests of consumers in relation to telecommunications?
2. Does ACCAN effectively engage with a broad range of stakeholders, including industry, government agencies and other consumer groups?
3. Considering the consumer representation role performed by ACCAN, has ACCAN adopted an appropriate balance between representation of general consumers and representation of those with particular needs?
4. Is a telecommunications specific consumer representative body funded by Government required or:
  - a. Should Government fund representation only for a body or bodies representing consumers with particular needs?
  - b. Could a telecommunications representation function be carried out by a general consumer body?
  - c. Could Government more directly measure consumer views by undertaking its own consumer research?

## 2. Independent Grants Program and research

Government provides funding to ACCAN for purposes in connection with research into the social, economic, environmental and technological implications of developments relating to telecommunications under subsection 593(2) of the Telco Act. ACCAN has, to date, distributed this funding under its Independent Grants Program (IGP), which provides funding of around \$250,000 per annum for consumer representation or research projects. There is a limit of \$60,000 of funding allocated to a single project.

The IGP is independently administered according to published guidelines that are intended to ensure fairness and consistency. Once a grant is awarded, ACCAN enters into a contractual arrangement with the grant recipient that specifies the grant's objectives, activities and milestone payments. Research papers funded under the IGP are publicly available on [ACCAN's website](#).

Completed research projects cover a wide variety of topics, as can be seen from ACCAN's website. Research projects that have been cited to the DoCA as useful include:

- *Homeless and Connected: Mobile phones and mobile internet in the lives of families and young people experiencing homelessness:* This research considered the importance of mobile phones to homeless people and is cited as leading to change, by extending provider assistance with bills to mobile phones and as also leading to ongoing work by telecommunications companies to assist people who are homeless.
- *Empowering women to end digital abuse:* Research about women and digital abuse may have contributed to changed practices by some telecommunications companies.

The ACMA and the ACCC have advised that research projects relating to the following topics have been useful to them in their regulatory roles: comparability of mobile plans, awareness of mobile costs, affordability maps, broadband performance, consumer decision making, the future of the universal service obligation, unfair contract terms, international mobile roaming charges, external dispute resolution, quality of Voice over Internet Protocol services and use of closed captioning.

The manner in which the research projects are selected and funded by ACCAN raises questions as to whether:

- the research projects are planned to achieve strategic outcomes, for example, with regard to areas of policy development that Government has advised it is considering;
- sufficient funding is available to allow research of sufficient depth and scope to meaningfully influence Government policy;
- too many small research projects are being undertaken, too frequently; and
- the approach adopted encourages collaboration with industry, Government's own research programs and/or universities.

It is also appropriate to consider whether a consumer body such as ACCAN is the appropriate body to be responsible for this funding. As mentioned previously, the Commonwealth Government has established the BCR within DoCA. It could be more appropriate for this research to be undertaken via the BCR or, to take another alternative, via one or more universities.

### Questions for consideration

5. Have you seen any examples of how research funded through the IGP has influenced Government policy or the behaviour of industry? Could changes be made to the IGP to make the funded research projects more influential?
6. Do you believe research funded through the IGP is useful to consumers? Could changes be made to the IGP to make the funded research projects more useful to consumers?
7. Is it appropriate for the Government to continue to provide grants to a consumer representative group (or any other non-government body) to undertake research into telecommunications issues?
8. If this is appropriate, what changes (if any) would you recommend to how the funding is provided and who it is provided to?

### 3. Should other activities be funded?

The final issue for consideration is whether other activities should be funded under section 593 of the Telco Act.

For example, funding under section 593 is not available for consumer education. There is a question of whether this is an activity of a consumer representative organisation that should be funded by Government or whether, for example, if there are measurable deficiencies in consumer education, it would be preferable for Government to fund the ACMA to undertake those activities.

Another activity that could potentially be funded under section 593 of the Telco Act would be to assess and report on retail telecommunications products suitable for low income consumers. This could subsume the function currently undertaken by Telstra's Low Income Measures Assessment Committee.

### Question for consideration

9. Should any other activities, other than consumer representation and research, be considered for funding under section 593 of the Telco Act? If so, what should these be and what would be the rationale for funding such activities be?

## Consultation process

Submissions do not need to be confined to responses to the questions raised in this consultation paper. Other issues relevant to the review should be discussed, where considered appropriate by any respondent.

Submissions are invited by 5pm AEST on Friday, 25 November 2016 and may be lodged in the following ways:

WEBSITE: [www.communications.gov.au/have-your-say](http://www.communications.gov.au/have-your-say)

EMAIL: [accanreview@communications.gov.au](mailto:accanreview@communications.gov.au)

POST: ACCAN Review  
Department of Communications and the Arts  
PO Box 13310, Law Courts  
MELBOURNE VIC 8010

Submissions must include the respondent's name, organisation (if relevant) and contact details. Submissions with no verifiable contact details will not be considered.

Respondents should be aware that submissions will generally be made publicly available, including on the Department's website. The Department reserves the right not to publish any submission, or part of a submission, at its absolute discretion. No correspondence will be entered into with respondents in relation to any decisions by the Department not to publish a submission in whole or in part.

All submissions will be treated as non-confidential information, and therefore able to be made publicly available by the Department, unless a respondent specifically requests its submission, or a part of its submission, is kept confidential, and acceptable reasons accompany the request. Email disclaimers will not be considered sufficient confidentiality requests. The Department is subject to the *Freedom of Information Act 1982* and submissions may be required to be disclosed by the Department in response to requests made under that Act.

The *Privacy Act 1988* establishes certain principles with respect to the collection, use, and disclosure of information about individuals. Any personal information respondents provide to the Department through their submission will be used for purposes related to consideration of issues raised in this paper in accordance with the Privacy Act. If a submission, or any part, is made publicly available by the Department the name of the respondent will be included with that submission, or part. Respondents should clearly indicate in their submission if they do not wish to have their name included in any publication relating to the review that the Department may publish.

Questions about the submission process can be directed to [accanreview@communications.gov.au](mailto:accanreview@communications.gov.au).