

Submission: Consumer representation: Review of section 593 of the *Telecommunications Act 1997* Issues paper

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Yes / No. YES

Date of submission

16/11/16

Logo of organisation—if an organisation making this submission



**Australian
Privacy
Foundation**

Name and contact details of person/organisation making submission

Australian Privacy Foundation

General comments

The Australian Privacy Foundation supports the continued funding of ACCAN.

Response

1. Has ACCAN effectively performed the role of representing the interests of consumers in relation to telecommunications?

Yes. ACCAN has effectively performed the role of representing the interests of consumers in relation to telecommunications. For example, ACCAN has done a lot of valuable work on trying to improve the Telecommunications Consumer Protection Code. It is noted that ACCAN did not approve the Code as it still needs further work to meet appropriate industry code benchmarks. It is entirely reasonable for a consumer organisation to push for improvements and minimum standards for an industry code.

ACCAN has also done a lot of effective work for consumers in making sure 1800 numbers are actually free for the caller regardless of whether you are calling from a mobile phone. These are just two examples.

In addition it has assisted other consumer and community bodies around the country, some of them very local, specialised or short lived, to effectively represent and advocate for particular groups affected by particular telecommunications issues, such as a dangerous local blackspot, or the effect of a certain vendor practice on people with a particular disability or disadvantage. This is a powerful combination, extending the reach of effective representation and advocacy to where it is needed around the country but retaining the deep policy expertise, technical skill and 'corporate memory' necessary to work effectively in this technical area while avoiding a massive organisational budget.

2. Does ACCAN effectively engage with a broad range of stakeholders, including industry, government agencies and other consumer groups?

Yes. ACCAN does consult with and work with a broad range of stakeholders. We believe this engagement could be further improved on general consumer issues.

We consider the governance of ACCAN could be improved by changing to a skills based board that are selected on merit as opposed to the current board selection process which works by vote. This change would be in accordance with best practice in governance.

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?

We contend that ACCAN needs to slightly change the balance. We would argue that advocating on general consumer issues should occupy more of the work of ACCAN on the basis that general consumer issues also covers disadvantaged consumers.

4. Is a telecommunications specific consumer representative body funded by Government required

Yes, it is required.

or: a) Should Government fund representation only for a body or bodies representing consumers with particular needs?

No. It should continue to fund ACCAN.

b) Could a telecommunications representation function be carried out by a general consumer body?

General consumer bodies such as Choice or specialist community legal centres such as Consumer Action Law Centre and Financial Rights Legal Centre all do work for consumers on telecommunications already. ACCAN is needed because it specialises in this technical and rapidly changing area. The other general consumer bodies already have many areas to focus on in consumer issues, and can find it difficult to recruit and retain staff with the sort of specialist technical expertise needed to robustly participate in this industry as ACCAN does so well.

c) Could Government more directly measure consumer views by undertaking its own consumer research?

No. There has already been extensive research. A specialist advocacy body is required. It needs to offer continuity and expertise (as agencies, technologies, services and industry entities come and go), and focus on understanding the varied interests of large and small groups of telecommunications consumers, including those in particular circumstances.

5. Have you seen any examples of how research funded through the Independent Grants Program (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?

Yes, though it can be difficult to trace specific actions of government or industry to particular research reports. The ACCAN funded report 'Communications privacy complaints: In search of the right path', launched at International Consumer Rights Day, set out a series of best practice indicators recognised by stakeholders and identified long delays in telecommunications complaint handling by a government agency, which responded publicly and has since reportedly reduced the incidence of delays. Shortly after, one of the researchers was invited to help administer the industry complaint scheme for a Code registered under the *Privacy Act 1988* by AMSRO, covering telephone and other market research, and adopting many best practices.

As noted above, it is not possible to confirm direct causal links but it is likely the research report and its support from ACCAN contributed to these outcomes by drawing public attention to the quality metrics of good telecommunications privacy complaint practices in.

The IGP is a useful governance model for similar research initiatives aimed at understanding consumer interests and issues. There may be opportunities to extend its influence by further developing links with universities and institutes (although these often have longer time frames and different priorities compared to the short, pragmatic IGP projects); or by encouraging projects which are jointly supported or conducted with other entities, including community and consumer advocates, government agencies and regulators, sympathetic industry bodies, and consulting or other research entities willing to contribute specialist

expertise or data (so long as they avoid conflicts of interest or weakening the robust research focus on understanding consumer interests 'on the ground'). There may also be value in extending the research internship program on the same basis.

Interaction and feedback from industry or government bodies should continue to be encouraged in the research stage, and afterwards.

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?

Yes, to varying degrees and ways depending on the research project and its context. The IGP fills a resourcing gap for well-conducted and well-governed research focused on pragmatic consumer interests around telecommunications. It can provide a credible evidence base to help consumers, intermediaries, advocates, regulators, and compliance bodies in industry to identify particular issues, trends and opportunities; and the research outputs may offer templates or possible solutions for those issues in ways that assist wider discussion, consultation and refinement.

In our view the existing research program responding to competitive proposals is proven to be useful, but it may be more targeted and strategic if ACCAN directs part of the research resources towards priorities based on topics or questions of particularly clear and pressing need.

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?

Yes. The ACCAN research scheme can help identify and resolve poorly-understood or systemic consumer concerns that would not otherwise be seriously investigated, and engage in research directly with general populations of consumers and those from groups such as regional and remote, people with disabilities, or disadvantaged communities.

(If, for any reason, this scheme does not continue or is reduced, the funding should be folded into further funding for ACCAN or a specialist telecommunications casework service to directly assist consumers, as discussed below.)

8. If this is appropriate, what changes (if any) would you recommend to how the funding is provided and who it is provided to?

As above. The funding should all be provided to ACCAN.

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?

We contend that policy should be based on evidence. Evidence can be gathered from a number of sources (including research). However, we contend that an important source of evidence should be obtained from running actual consumer complaints and providing specialist legal advice to consumers. ACCAN does not run any casework. It has not built any way to get that evidence from casework.

It would be useful to use a small part of the funding to partner with a specialist community legal centre to develop and run an advice and casework services that specialises in telecommunications problems. That service would then gather evidence of trends and systemic issues to feed into ACCAN policy work.