

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

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Yes

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Logo of organisation—if an organisation making this submission



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General comments

ACCAN receives approximately \$2,500,000 in public funding per annum. In the 2016 financial year, the organisation spent \$564,647 on administrative, non-outcome producing overheads such as travel and occupancy, \$1,416,446 on employee benefits but made research grants of just \$349,445. There is clearly significant overhead and inefficiency in the

scheme that is not resulting in value-for-money outcomes of public funds or leveraging of existing government resources¹.

Research Grant Scheme

While ACCAN performs a number of key functions such as consumer advocacy, policy participation and publication, one of its key mandates is the administration of the grants scheme. Accordingly, with a total of 86% of ACCAN's budget spent on expenses rather than grants, there appears to be significant overhead and inefficiency in the delivery of this core function in comparison to the cost of management schemes such as the Australian Research Council ('ARC').

In the same year, the ARC accrued costs of \$25.1M for a scheme under management of \$859M. As a measure of efficacy, the ARC spends 2.9% of its budget under management in expenses compared to 86% for ACCAN². The figures speak for themselves.

Further, there is no evidence within the ACCAN annual reports that the organisation possesses any special capabilities or indeed, equivalent baseline capabilities of Universities or government research councils necessary to assess the merits of each grant application with the same degree and depth of academic rigour and cost-benefit analysis. There is also no evidence that operating this function outside of the executive branch of government provides any special benefit or independence.

Finally, there is no evidence that ACCAN performs pro-active long-term assessment on the outcomes of each grant made by the scheme by revisiting each grant and assessing and measuring outcomes subsequent to completion. The lack of controls, accountability, transparency and measurement is indicative of immaturity in ACCAN's grants process consistent with an organisation lacking the long-term experience and retained knowledge present within research councils, commissions in the executive branch of government or Universities.

Nature of Research Grants

The ACCAN is required to operate a scheme relating to consumer issues in communications pursuant to s.593(1) of the *Telecommunications Act 1997* (Cth) ('Act') or economic or social issues pursuant to s.593(2).

However, many of ACCAN's grants appear to lack a direct connection with its mandate. This is not to say that many such research grants are not worthwhile or valuable, but rather, their connection with telecommunications or consumer matters appears tenuous.

For example, a research grant of \$55,658 for the making of an aboriginal storytelling app does not appear to be related to consumer issues in accessing or operating in the telecommunications market nor does it address socio-economic issues related to telecommunications in compliance with s.593 of the Act.

¹ ACCAN Annual Financial Report 30 June 2016

² Education Portfolio Budget Statements 2016

Such a grant application and its delivery might be more appropriately tested, funded, managed and measured by an indigenous NGO or the executive branch of government.

Another grant of \$49,267 was made for assessing consumer issues in downloading 3D printer files. Such a project does not fundamentally address the consumer telecommunications market or socio-economic focus of the grant scheme. Research into any consumption of content is typically not market-based research on the consumption of telecommunications services in Australia and should not be funded by ACCAN.

Conversely, while a \$54,123 grant empowering women to end digital abuse clearly appears to be in accordance with s.593(2) of the Act, it is our respectful submission that a project of this nature is best funded on a standing basis through the executive branch of state or federal government rather than ad-hoc through a consumer grants scheme. In particular, such a funding context could possibly produce improved outcomes in a law enforcement rather than consumer context. It is certainly laudable that ACCAN has funded this project but we believe improved outcomes could occur by tighter coupling with government.

Consumer Education and Advocacy

By virtue of its position as an independent non-governmental organisation, ACCAN lacks the capability and function to analyse and tailor its consumer advocacy using evidence based, data-driven approach utilising government data. Further, it lacks the legislative remit to obtain and properly maintain consumer-based data such as the rich data kept by the Telecommunications Industry Ombudsman ('TIO') and the Australian Communication and Media Authority ('ACMA').

By way of comparison, if the same consumer advocacy function operated from the ACMA directly, existing data sharing arrangements between the ACMA and TIO could be exploited in conjunction with the rich capabilities and efficient use of other departmental resources such as the Australian Bureau of Statistics and the Australian Competition and Consumer Commission. Such an evidence-based, data driven approach would allow a properly informed consumer advocate to properly identify mischief requiring advocacy for reform.

While the ACCAN clearly co-operation with the TIO and ACMA, it would of course, not be appropriate for the ACCAN to have access to the private records of the TIO, which in our respectful submission are necessary to appropriately create a relevant, data-driven, evidence based approach to consumer advocacy.

Overall Financial Position

Finally, as at 30 June 2016, ACCAN holds \$1,153,072 in public monies being cash or cash equivalents. These assets have grown steadily since its inception and are indicative of systemic over funding of ACCAN. Coupled with what appears to be some inefficiency should

prompt government to seek to alter the model to produce better outcomes for consumers and efficient use of public funds.

Membership Base – A diverse set of voices

The membership base of ACCAN includes numerous organisations that are presently as capable or likely to be as capable as ACCAN with a modest increase in resources to engage in substantially the same volume and quality of consumer advocacy activities as ACCAN. The breadth and depth of state-based community organisations, local government, educational institutions and legal centres that are members is indicative of the proliferation of alternate consumer bodies that could far more efficiently utilise monies granted made under s.593 of the Act rather than through ACCAN.

Consumer Based Outcomes through Regulations

It is our position that the funding presently provided to ACCAN is likely to produce the best outcomes for consumers if all existing funding is diverted directly to the ACMA to:

- (a) Provide individual grants to consumer bodies (many of which would be existing members of ACCAN) thereby reducing the inefficiency of the ACCAN grant scheme;
- (b) Divert much of the resources presently spent on administrative and employee benefits on increasing the resources of the ACMA to perform the following functions:
 - a. Telecommunications industry investigations and audits;
 - b. Telecommunications prosecutions and enforcement activities; and
 - c. Telecommunications policy development and consumer education and advocacy using data-driven, evidence-based approach relying on the rich data kept by the TIO, ACMA, ACCC and ABS.

Why the ACMA should undertake ACCAN's activities

The ACMA is the appropriate recipient of these increased resources for the following reasons:

- (a) The existing regulatory scheme is voluntary and relies upon the resources of the ACMA to confirm compliance and undertake enforcement activities. A comprehensive compliance regime should be the starting position for consumer outcomes before any further advocacy or education activities are considered;

- (b) Existing shared services such as government office space, human resources and IT can be used efficiently allowing more funds dedicated to consumer focused activities;
- (c) An ACMA engaged in consumer advocacy, regulation and enforcement can knowledge-share to create tightly coupled, relevant, agile regulator.

It is our position that if the entire funding corpus dedicated to the ACCAN was diverted to the ACMA, it would be able to undertake regulatory, investigatory and prosecutions which would substantially improve conditions for consumers in the Australian digital marketplace.

Response

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

No.

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

No. ACCAN do not have a productive relationship with industry.

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?

No. As is patently obvious from ACCAN's research grants scheme, it has focused greatly on representation of minority and special interest groups.

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?

No. The ACMA should engage in consumer-focused activities in similar manner and form as the ACCC has performed for decades.

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

Yes. It is our respectful submission that general consumer bodies and special needs consumer bodies are more than capable of addressing telecommunications issues relevant to them and a grants scheme administered by the ACMA could appropriately allocate

resources to these organisations should they be required. As an example, Victorian Consumer Affairs which presently employs former Ombudsman Simon Cohen is certainly capable of undertaking such activities.

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

Yes. We would encourage the ACMA to engage directly with consumers and utilise the rich data set and consumer contact interface that the Telecommunications Industry Ombudsman scheme provides to provide a data-driven evidence based approach to consumer advocacy and regulation.

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?

No. There does not appear to be any measurement of outcomes of projects in the scheme.

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?

No. The scheme should be managed directly by the ACMA and its usefulness measured through follow-up review and measurement activities.

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?

Please refer to our previous submissions.

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

Please refer to our previous submissions.

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?

No.