



**CONSUMERS
FEDERATION
OF AUSTRALIA**

Developing and promoting
the consumer interest

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25 November 2016

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

Also sent by email to accanreview@communications.gov.au

Dear Sir/Madam,

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

Consumers' Federation of Australia (**CFA**) is pleased to respond to the Issues Paper on consumer representation in the telecommunications sector (the **Issues Paper**).

CFA is the peak body for consumer organisations in Australia. CFA represents a diverse range of consumer organisations, including most major national consumer organisations. We advocate in the interests of Australian consumers with and through our members, support consumer representatives to industry and government processes, develop policy on important consumer issues and facilitates consumer participation in the development of Australian and international standards for goods and services. We are also a full member of Consumers International, the international peak body for the world's consumer organisations.

The Australian Communications Consumer Action Network (**ACCAN**) is a full member of the CFA.

Consumer representation

ACCAN's performance – questions 1, 2 and 3

ACCAN has effectively performed the role of representing the interests of consumers in relation to telecommunications. ACCAN effectively engages with a broad range of stakeholders, including industry, regulators and policy makers. For example, ACCAN is represented on various consultative fora hosted by these stakeholders and makes constructive input.

ACCAN also engages effectively with other consumer advocacy organisations. ACCAN is a member of CFA and has been represented on its executive committee. CFA is a member of ACCAN's member advisory committee, as is CFA member organisation, the Australian

Privacy Foundation. This forum provides one avenue through which other consumer advocates can have input into ACCAN's strategic priorities.

ACCAN has a balanced approach to the representation of general consumers and representation of those with particular needs. In terms of groups with particular needs, ACCAN has engaged in advocacy benefiting those in regional/rural areas (for example, in assisting communities to identify and fix mobile coverage 'blackspots'), those living with disability and/or other accessibility issues (for example, accessible programming on TV), and those with limited financial means (for example, supporting research on connectivity costs and affordability). ACCAN has also engaged in advocacy on behalf of general consumers, for example, its work on the effectiveness of information provision by telecommunications providers, or network pricing and NBN issues.

CFA notes that disadvantaged consumers are not a group that is 'set in stone'. Any consumer is vulnerable to disadvantage, should they experience a life calamity such as illness, injury, job loss, etc. Advocacy for disadvantaged groups (for example on misleading marketing that has a disproportionate impact on those least able to negotiate complex markets on their own) can also benefit 'general' consumers. Representation on behalf of 'disadvantaged' groups will thus help all consumers.

CFA notes that ACCAN has perhaps been most effective when it strongly engages with consumers and organisations concerned with consumers' interests to advance a strategic policy goal. An example of this approach was ACCAN's 'Fair Calls for All' campaign which was successful in ensuring 13 & 1800 calls from mobiles were affordable. While evidenced-based research and policy input into consultative processes is very important, changes to industry practices to benefit consumers more often occurs when policy insights that will benefit consumers are effectively communicated to decision-makers in industry and/or government in an ongoing way.

Specific or general advocacy body – question 4

There are benefits in having a specialist telecommunications advocacy body but there would also be benefits in a properly funded peak consumer body with the expertise and differentiated capacity to respond to issues in key consumer policy areas including telecommunications. There is clearly no other existing consumer organisation that has the skills or capacity to undertake the necessary work that ACCAN is undertaking.

There is significant benefit in having a telecommunications-specific consumer representative body or a dedicated part of a generalist body that would behave in a very similar way. Either approach enables an enhanced ability to research and understand consumer issues and views with respect to the telecommunication sector, and to develop strong links and relationships with policy makers, regulators and industry that is specific to telecommunications. The sector is highly technical and a level of specialist knowledge can be required through a telco-specific consumer representative body.

There would be very limited cost savings in including appropriate telecommunications consumer advocacy capacity in a generalist body, rather the advantages would be increased ability to learn from experience in other sectors. ACCAN achieves this through active participation and skill sharing in consumer forums, such as those organised by CFA. There may or may not be disadvantages in terms of focus of the organisation.

While any sector specific body does remain independent, there remains a real benefit in any specialist consumer representative body to be networked with, and have strong

relationships with, generalist consumer organisations – including those that operate as peaks (so that information can be shared across sectors for the benefit of all sectors), as well as casework organisations (so that the experience of telecommunications consumers, as identified through casework, can be fed into the advocacy). To this end, we note that ACCAN (like other sector-specific consumer advocacy bodies like Energy Consumers Australia) is a member of CFA.

There is a danger that policy advocates (along with policy makers) focus too much on issues in their own sector and don't learn from parallel developments in similar markets (in this case in particular energy and financial services). Various strategies can be used to ensure that advocates take advantage of learnings from other different but similar markets and regulatory environments including working with generalist consumer advocates and consumer policy researchers, participating in generic or cross sector research and membership of peak consumer advocacy bodies.

Casework integration

As noted above, there is value in policy advocacy being closely linked to consumer casework.

This allows for experience of telecommunications consumers to be built into advocacy, both in terms of identifying the priority issues affecting consumers but also understanding the effectiveness of the existing system (e.g. the law, regulators, ombudsman scheme) in dealing with consumer detriment.

Recognised consumer advocacy experts have argued that it can be very effective to provide assistance to individual consumers, and integrate this casework with broader strategies such as campaigning.¹ Research has also shown that combining casework with broader policy advocacy increases the efficiency of service delivery and access to justice through addressing systemic issues affecting large numbers of people.² The Productivity Commission has similarly found that strategic advocacy should be undertaken by casework organisations.³

There is opportunity for ACCAN to link its work more closely to consumer casework, particularly with enhanced resourcing to do so. A number of CFA members undertake consumer casework or represent consumer casework organisations (e.g. Financial Counselling Australia). Those caseworkers are exposed to the issues and everyday stresses faced by telecommunications customers.

One option would be for ACCAN to embed staff part-time in community legal centres that deal directly with consumers of telecommunications services. Another option would be for ACCAN to provide grants to such casework agencies.

Independent grants and research – questions 5 to 8

CFA strongly supports the independent grants and research program of ACCAN. The grants program is an important way for ACCAN to remain connected to and support the work of

¹ Carolyn Bond, 'Consumer casework—a driver for broader strategic advocacy', Ruby Hutchinson Lecture 2013, available at:

https://www.accc.gov.au/system/files/2013%20Ruby%20Hutchison%20Address%20-%20Carolyn%20Bond%20-%202014%20March%202013_0.pdf.

² NSW CLCs, 'Adding Public Value: The integration of frontline services and law reform in the NSW Community Legal Sector', August 2014, available at: <http://financialrights.org.au/wp-content/uploads/2014/08/FINAL-REPORT-Adding-Public-Value1.pdf>

³ Productivity Commission, *Access to Justice Inquiry Report*, recommendation 21.1.

particular groups of consumers, or develop evidence about particular issues affecting telecommunications consumers.

CFA notes the establishment of the Bureau of Communications Research in the Department of Communications and the Arts (**DOCA**). However, this body does not appear to be dedicated for research in the consumer interest. Rather, it focuses on economic and statistical issues. CFA notes that there is also great benefit in consumer research and advocacy being linked. This enables advocacy to be empirical or evidence-based, and is likely to mean more effective policy.

CFA notes that various inquiries, including the Productivity Commission's 2008 consumer policy inquiry, have recommended that additional public funding be provided to support policy-related consumer research (as well as to support the operating costs of a representative national consumer body, and assist the networking and policy functions of consumer advocacy groups).⁴ The Productivity Commission supported contestable grants for consumer research.

There may be benefit in providing greater flexibility to ACCAN and its independent grants program, particularly with respect to the maximum amount of the grant. Where a research project demonstrates substantial value for consumer interests, then it may be that funds greater than \$60,000 be awarded—it is noted that this is a relatively small amount which may limit action research applications. Another option is to allow for second or third phase grants in subsequent years for projects which ran successful pilots but required further funding to upscale or implement research findings.

CFA would encourage ACCAN to consider whether the terms of reference for its independent grants panel can be more specific about the necessary expertise of members. For example, we would advocate that at least one member have strong links with the broader consumer advocacy sector. This would ensure that research projects remain connected with the interests of consumers.

Should other activities be funded? – question 9

CFA does not support grants under section 593 of the Telecommunications Act being available primarily for consumer education. To be effective, consumer education generally requires large budgets through individualised or commercial marketing strategies. Further responsibility for consumer education is likely to dilute the ability of ACCAN to undertake effective consumer advocacy. This is not to say that consumer education cannot be a related aspect of consumer advocacy, for example, a constituent part of a consumer campaign. However, our view is that consumer education should not be a primary responsibility.

CFA notes the excellent work of the Australian Securities & Investments Commission (**ASIC**) in consumer and financial education, particularly in schools.⁵ Should the DOCA wish to enhance consumer education in relation to telecommunications, we would encourage a partnership with ASIC to enhance the materials and approaches that have already been impactful, outside the context of section 593. The Australian Communications & Media Authority (**ACMA**) could also play a part.

⁴ Productivity Commission, *Inquiry Report: Consumer Policy in Australia*, December 2008, available at: <http://www.pc.gov.au/inquiries/completed/consumer-policy>

⁵ Australian Securities & Investments Commission, *MoneySmart*, available at: <https://www.moneysmart.gov.au/teaching>

Should you have any questions about this submission, please contact me at [REDACTED] or on [REDACTED].

Yours sincerely

A handwritten signature in black ink that reads "Gerard Brody". The signature is written in a cursive style with a large, prominent initial 'G'.

**Gerard Brody, Chair
Consumers' Federation of Australia**