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15<sup>th</sup> July 2010

Communications Alliance Ltd  
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Dear Sir/Madam,

**Re: Review of the Telecommunications Consumer Protections (TCP) Code**

I make this submission on behalf of the Financial Counsellors' Association of Queensland (FCAQ).

FCAQ is the peak body for the Financial Counselling sector in Queensland. The association has 66 members located from Cairns to the Gold Coast and west to Roma.

Our membership's client base (depending on funding agreements) ranges from wage/salary earners, gamblers, and Centrelink recipients; self funded retirees, small business owners and primary producers. Financial Counsellors provide support to individuals or families experiencing financial difficulties. Support is tailored to each client and includes advocacy, budgeting, education, and empowerment. Referrals are made where necessary and appropriate to other services to further improve the situation of the client.

This submission is allowed to be put in the public domain.

Our members see on a daily basis the effects of irresponsible selling of a service or product and poor customer service (at times nonexistent customer service) in the telecommunication industry.

We welcome this opportunity to make comment on the Telco sector which has long been a bugbear of financial counsellors. Telco industry sales staff often appear to be focussed on making sales rather than properly assessing the customer's capacity to pay and to ensure there is informed consent. From the collective experience of our membership it would appear that the sales and marketing focus of the industry is simply selling a customer phones/plans that look good for the retailer (or earns a good commission for the salesman) that cause severe financial hardship and ultimately bad debt for the consumer.

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Comments made are based on what Queensland financial counsellors see in their case work. Some case studies are presented as examples of the poor customer service seen in the last few months by some members of FCAQ. Some of these practices continue because of the lack of responsibility (i.e. no financial incentive or penalty to be responsible) for the retailer or service provider to look at financial capacity or tailoring the service to the customer's financial capacity. The other aspect is leaving services open for high cost usage such as 1900 numbers and internet with no education or information being given to the customer on the costs of these services.

FCAQ would also like to endorse and support the issues raised in the letter sent to Mr John Stanton (CEO, Communications Alliance) by Mr Allan Asher (CEO, Australian Communications Consumer Action Network) dated May 20<sup>th</sup> 2010 as set out in the Call for Comments paper.

We will address the issues raised by industry in the Call for Comments paper as our format for responding.

*Being upfront and responsive in dealing with customers about the services supplied to them.*

We wholeheartedly agree with this statement but actual experience of this is not what our membership sees.

The major concern raised by our members in this area is the time it takes to actually speak with a Telco representative. Rarely can a financial counsellor make contact within five minutes of calling a Telco; the norm is being put on hold for 10 to 15 minutes and being transferred multiple times before finding someone who can answer a query.

A friend of a member recently bought three mobile phones over the phone and when they arrived sought to activate them. It took ten hours and four separate phone calls to get them activated as the salesman had signed the customer to a plan that was no longer available. On the first three calls to the Telco; the customer was disconnected from the operator as it was time to go home (was not told this when he was put on hold; but when the phone went silent he rang back to find the call centre was closed). To activate these three phones the customer took half a day off work so that he had enough time to be on hold and get the phones activated. The last phone call took five hours and the threat he would send them back and go to another service provider before the Telco 'discovered' what the problem was and fixed it.

We accept the above case is most likely abnormal but the time wasted by customers and financial counsellors is not and is experienced most times a Telco is called. The Code should be making the Telco's compensate for the time spent waiting, multiple transfers and the time it takes to actually resolve a problem.

*Ensuring the advertising and promotion of products and services is clear and accurate, with the associated costs communicated unambiguously.*

We note that the big print in advertising gives and the small print takes away. Why does a customer need a magnifying glass to read the conditions which rarely are clear? FCAQ therefore asks that

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the minimum Font size for all Telco publications including accounts, contracts and advertising be set at 12 Font.

Having clear, readable font size and accurate advertising of a product or service is essential to ensure customers can make an informed decision.

However, those with Non-physical Disability (NPD) have particular and specific requirements. Sight and aural impaired require those technologies accessible on their computers – not just the calling service that provides aid. Intellectually and acquired brain injured people require another set of protections and one of those may be that they should be identified as having such an impairment before entering into any agreements. People with mental illness need to be protected from a salesman selling the latest phone without ensuring there is capacity to pay.

A member currently has a client who is on a Youth Disability Supplement Allowance (a payment of \$483.70 per fortnight) living in Community Housing, who was sold a mobile phone and broadband plan in a shopping mall stall. He was told it would cost him \$179.26 per month comprised \$108.90 per month for the mobile on a ‘capped plan’ and \$70.36 per month ‘minimum’ for the broadband. Although his broadband slowed down when he reached a certain data allocation he was still able to access the internet albeit at a reduced speed. A support worker brought him in to see a financial counsellor as his monthly bills were \$150 for the phone and \$200 for broadband, a total of \$350 per month. The Telco would not accept that it was irresponsible to sell someone on a Youth Disability Supplement Allowance these plans even though 18.5% of his monthly income was needed to meet the minimum payments and it was a two year contract. They refused to cancel the contracts without penalty despite being sent a letter from his doctor stating his disability; they also refused to say what evidence they used to assess he had capacity to pay. The case went to the TIO and as soon as the Telco was informed by the TIO that a complaint had been lodged they contacted the financial counsellor cancelled the contracts without penalty and wrote off the outstanding debt of \$1000.

We would argue selling any customer a telecommunication product/service where the minimum cost is 18.5% of their monthly Centrelink income is not just irresponsible but also unethical. This case study may be considered isolated or rare but the majority of our members have case studies very similar to this of a young person whether or not they have a disability being caught. All of the major Telco's engage in this irresponsible practice of selling services to people who do not have the capacity to read a contract let alone understand what it says.

We also find it disappointing that Telco's are unwilling to acknowledge they have made a mistake/got it wrong in cases such as this until a complaint is lodged with the TIO.

FCAQ strongly urges that the new code introduces a financial penalty for Telcos who do not accept responsibility for their actions until the TIO becomes involved and then suddenly ‘decide’ to agree with the financial counsellor to rectify the wrong. We know that one reason they suddenly ‘decide’ to agree is that they do not want to pay any money to the TIO. Our membership believes if Telcos

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had to pay a fee greater than what they pay the TIO to investigate a case when they refuse to deal with a financial counsellor or customer, you would see a lot less complaints going to the TIO.

Terms and costs in contracts and/or advertising are equally problematic. Most clients who have reasonable literacy do not read their terms and conditions because they don't understand them and they are unwieldy in their wording. The notion that people with NPD can have "fair terms" and "clear and unambiguous" costs information provided to them and then that they will understand them is not realistic.

As for assistance being readily available, for the really vulnerable consumer, that can only be addressed through having a face-to-face presence in the Telco agencies. Vulnerable customers need to be able to see a face and connect with a person; someone who is disability trained and has acquired some understanding of the complexities of a customer's disability.

Many of our member's clients are on low incomes, often Centrelink recipients. We note that many of these clients buy phones with Capped plans to keep a check on their finances. However buying a capped plan with a certain dollar value of calls does not exclude them from bill shock as very often there is list of exclusions from the cap. Some plans have unlimited calls but these too very often have exclusions that also brings bill shock. We ask for truth in wording used in contracts, a cap of \$50 per month means no matter what number is called or download made only \$50 can be charged to that account.

*Ensuring contracts with customers are clear, concise and easy to follow and do not contain unfair terms and conditions.*

Further we ask that there is a need for a base level no-frills, easily-understood product offered by each major Telco for all customers, not just vulnerable customers. Banks do this with their basic everyday bank accounts; therefore we ask that Telcos be required by the Code to provide a basic no-frills no-contract service for each product type (internet, home phone, mobile).

A number of the clients seen by our members have been approached by a telemarketer. We note that this is a good way of having a vulnerable person sold a product or service they neither need nor understand. Telemarketers seem to be more interested in making a sale rather than what is the best for the customer. We ask that a sale cannot be confirmed over the phone unless the customer has been sent the terms and conditions beforehand.

*Making sure customer assistance is readily accessible and provided in a timely manner.*

Appendix A at A1.1 ACMA submission, clause 7.5 requires the supplier to make its hardship policy available at no more than two clicks away from the home page. We argue that the link should be clearly displayed on the home page.

A desktop survey of some major telecommunication providers' websites shows the difficulty of getting details to make a complaint.

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On the morning of July 7<sup>th</sup> 2010 four telecommunication providers' websites were viewed to see how easily it was to find contact details to make a complaint for a customer or consumer advocate. Providers chosen were Telstra, Bigpond, Optus and Vodafone; the results are as follows:

Telstra – easy to find and had phone number, email and postal address to contact but no fax number to make a complaint. Although the link below explains briefly about making a complaint there is no mention of the Telecommunications Industry Ombudsman (TIO) if the dispute is not resolved.  
<http://www.telstra.com.au/abouttelstra/commitments/telstra-complaints-policy/>

Bigpond – was able to be found and explains about complaints policy and mentions TIO, Communications Alliance and Australian Communications and Media Authority (ACMA), no phone number on page but if followed another two links, a phone number and email form. No postal address or fax number.  
[http://bigpond.custhelp.com/cgi-bin/bigpond.cfg/php/enduser/std\\_adp.php?p\\_faqid=10271&display=content](http://bigpond.custhelp.com/cgi-bin/bigpond.cfg/php/enduser/std_adp.php?p_faqid=10271&display=content)

Optus – no noticeable way to identify how to make a complaint, does have a link on accounts billing page with some details about getting an extension to pay with numbers for mobile or home customers but has no fax number or postal address. Page for making complaints has good information, no mention of TIO or a fax number.  
<https://www.optus.com.au/portal/site/aboutoptus/menuitem.8ec78f21a99f2c66d0b61a108c8ac7a0/?vgnnextoid=befcbab5610b1110VgnVCM10000029867c0aRCRD>

Vodafone – contact us button on home page did not go directly to contact details, using contact us button under help and support did go to a page where contact details were available, no fax number. Complaints link in this section did not say how to make a complaint and appears to be designed around product support rather than actual dissatisfaction of customer service etc.  
[http://vodafone.custhelp.com/app/ask/session/L3NpZC9tVTY0dmc0aw%3D%3D/kw/complaints/r\\_id/166/sno/0](http://vodafone.custhelp.com/app/ask/session/L3NpZC9tVTY0dmc0aw%3D%3D/kw/complaints/r_id/166/sno/0) Typed in “hardship” on website search and first item was an application for hardship but apart from a mailing address the form did not have a fax number to fax it to (typing hardship on the other three providers did not provide direct access to hardship as Vodafone).

From this very quick survey it is very clear that the major service providers are not interested in making it easy for their customers to make a complaint or for a financial counsellor to make representation on their behalf (not having a fax number listed makes it hard for a financial counsellor to send a letter outlining details and an authority to act on behalf of the Telco customer).

On the TIO website it is not easy to access contact details for members of their scheme. Again it appears industry (or the TIO) does not want customers or financial counsellors contacting them to make complaints.

Page 63 of the Code states “Suppliers must comply with the Rules and must be able to demonstrate that they have done so”. We ask where and when does this happen?

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Our members hear on a daily basis from clients of the frustration of attempting to make contact with a call centre and either being disconnected after being put on hold or having once reached someone; that person cannot speak English in a manner that is understandable. We note that nowhere in the complaint handling section of the Code is there a requirement to ensure staff can speak English in a form that a customer can hear and understand. Unfortunately informing a call centre person that you cannot understand what they are saying and then asking them to speak more clearly often results in the caller being disconnected from the call centre.

A number of financial counsellors have sent me case studies where the Telco was contacted and asked for an account to be sent out to them (or the customer) with the amount owing on their account and the Telco has refused. The financial counsellor has had to go to the TIO to get the Telco to give them a copy of the monies owing.

When making representation to a Telco on behalf of a client, financial counsellors use a third party authority. On many occasions Telcos either will not accept an authority that they allowed last week for another client or say they have not received it, even when the authority was in the middle of the letter sent to them. They have the entire letter sent except page 3 or 4 of a 6 page letter – just missing the authority which was faxed all at the same time.

Although the Code clearly states (9.2.1) suppliers must reasonably assist customers this is not the experience of our membership and certainly not shown in the above case studies.

*Providing effective means for addressing unresolved customer issues and keeping customers informed.*

Anecdotal feedback for our membership shows that on many occasions unless the financial counsellor mentions that they will now take this case to the TIO, the Telco call centre appears unmotivated to acknowledge the customer's issue is not being resolved or indeed there is actually a problem.

Rarely in our experience does a Telco call centre (large company or small company) give out contact details of the TIO if the issue cannot be resolved by the call centre and the customer or by a financial counsellor.

The fact that 230,000 complaints were received by the TIO (last year) does demonstrate the failure of Telco's to abide by the Code and that it is cheaper for them to have their complaints dealt with by the TIO.

Although the Code clearly states (9.2.6) advising customers of timeframe updates within 5 working days of receiving complaints, we note this rarely happens. 9.2.8 also says that customers should be advised in writing the outcome of the complaint if the customer requests it – rarely do our members see this – we are told that “we do not send out written confirmation of payment arrangements” or “why would you need written confirmation of the payment arrangement or that we have written the debt off?” The reason financial counsellors ask for written confirmation is twofold – the client

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knows what is required of them as well as reassurance the matter has been resolved and evidence that a agreement had been reached (there are occasions where the agreed outcome has not been documented in the company's system).

## SUMMARY

1. Support and endorsement of letter sent by ACCAN to Communications Alliance.
2. Customers and financial counsellors are compensated for time spent on hold to a Telco and being transferred more than twice.
3. Code to clearly set out minimum Font size of 12, which is to be used in all Telco publications whether it is a contract, account or advertising.
4. Telcos have designated staff to assist customers with a disability to find products suitable to their needs.
5. Truth in wording to be used in contracts - capped means no matter how the phone is used only the maximum amount that can be used is the capped amount.
6. Telcos be required to have a 'no frills' product for customers on low income.
7. A sale made over the phone cannot be confirmed as a sale until the customer has been sent the terms, conditions and contract.
8. Shadow shopping is introduced by Communication Alliance as a way to check compliance of the Code by Telcos and auditing of compliance to the Code is publicly reported on a quarterly basis.
9. Link for a Telco hardship policy as well as how to make a compliant be clearly displayed on the home page of all Telco websites.
10. The TIO home page has a link for making a complaint to a Telco clearly displayed which has the details of all members' Internal Disputes Resolution section/departments phone, mail, email and fax numbers.
11. The Code contains and lists financial penalties for non compliance with the code.
12. Fees and charges paid to TIO are increased to Telcos as an incentive to resolve complaints sooner.

Financial Counsellors are not against telecommunication companies however from our experience some consumers are "enticed" into making poor decisions by glossy brochures or fast talking salesmen or telemarketers. By having the appropriate regulations in place, unscrupulous operators once identified are more able to be prosecuted.

FCAQ is not in favour of making it harder for companies to do business but we firmly believe that it is in the public good to ensure that the disadvantaged in our community are protected and that the Code sets a minimum standard of consumer protection and also sets out penalties that make it in the financial interest of telecommunication companies to do the right thing by their customers, not what the company thinks is best for its customers.

Therefore, we strongly urge Communications Alliance to ensure this review makes changes to the TCP code to send a strong and clear message to the telecommunication industry that consumers and consumer advocates are not prepared to accept the current sub standard customer service.

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We also ask that the focus of the new TCP code is customer focus – what is reasonable and fair for the consumer – not what is fair and reasonable for industry.

Yours sincerely,

David Lawson  
Secretary FCAQ  
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