

COMMUNICATIONS
ALLIANCE LTD



Submission to the
Telecommunications Consumer
Stakeholder Forum

30 April 2008

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1 Introduction

Communications Alliance is pleased to have the opportunity to make a submission to the Telecommunications Consumer Stakeholder Forum.

Communications Alliance is the peak telecommunications industry body in Australia. Its membership is drawn from a wide cross-section of the communications industry, including service providers, vendors, consultants and suppliers as well as business and consumer groups.

Communication Alliance's mission is to provide a unified voice for the telecommunications industry and to lead it into the next generation of converging networks, technologies and services.

Further information on Communications Alliance can be found at www.commsalliance.com.au.

2 Executive Summary

This submission makes the following points:

- a) This forum provides an important opportunity to look at ways to enhance the voice of the consumer in the development of telecommunications policy and in the development of consumer codes.
- b) Discussion at the **Telecommunications Stakeholder Consumer Forum** should be on the options for enhancing engagement in the future of a broadband convergence environment.
- c) The objectives sought to be achieved at the Forum, while focused on process, structure and resourcing, should also be informed by the broader context of the wider range of tools available to improve the consumer's experience, including technological tools, enhanced competition and an increased focus on evidence-based outcomes-based approaches.
- d) The discussion needs to acknowledge the mutual responsibilities of suppliers and those who act as consumer advocates to contribute to enhanced outcomes for consumers.
- e) When looking at consumer engagement the following issues need to be considered:
 - i) Definition
 - ii) Resourcing
 - iii) Capacity building and skills
 - iv) Structure
 - v) Research
- f) Industry is committed to ensuring industry codes of practice provide appropriate and adequate community safeguards and engender confidence to consumers. The current suite of registered consumer-related codes, the history of consumer involvement in the development of those codes and the response of industry to calls for a different approach, demonstrate commitment to solid consumer outcomes.
- g) The legislative provisions enabling recovery of development costs for consumer-related codes from licensed carriers has enhanced opportunities for consumer representatives to input into the development of consumer-related codes in a cost-effective and efficient manner.
- h) With the advent of the broadband age, it is imperative that all stakeholders work collaboratively and cooperatively towards a more effective consumer representative model in Australia. The telecommunications industry is ready and willing to be part of the solution.

3 Towards a Broadband Converged World

The telecommunications industry is undergoing a fundamental transformation. The traditional lines between telecommunications and media are becoming blurred. Products and services are becoming more ubiquitous, converged and complex. In this new broadband-enabled converged world the consumer experience is changing dramatically. The consumer has a choice of more products and services than ever before. Their contact with service providers is more frequent. This means more bills, more complexity and a new world of consumer demand and expectation.

The **Telecommunications Stakeholder Consumer Forum** offers an excellent opportunity to rethink the consumer representative model in Australia. It is timely to consider the best way to get the best advice to industry about consumer's needs and aspirations. We need to respond to challenges to the current framework and develop a model that is well resourced and focused on achieving outcomes.

The industry needs to be able to utilise broad-ranging advice concerning the challenges and opportunities facing consumers which cross the boundaries of the traditional sectors of telecommunications, broadcasting and media. Development of policy for the broadband convergence environment requires consumer representatives who are capable of providing such cross-sectoral advice.

Given the fast pace of the change there needs to be a consumer representative model that can adapt and provide informed advice quickly to be ultimately effective and productive.

4 Context: Objectives and Focus

We support the objectives of the **Telecommunications Consumer Stakeholder Forum**:

- i) to examine the effectiveness of the current consumer representational model;
and
- ii) to explore a range of options that will provide consumers with the strong voice they need.

It is our submission that the focus should be on the second of these objectives. There is much in the public arena which documents some levels of dissatisfaction with aspects of the current consumer representational model¹. We submit that revisiting or debating these positions will do little to advance the Government's wider objectives from the Forum.

It is essential that discussion is moved away from a focus on processes and historical reasons for dissatisfaction. Consideration is required of the outcomes for consumers in the world of broadband and convergence and how consumer representation can contribute to those outcomes.

Effective consumer engagement is not about mandating consumer representation in all stakeholder processes – Government, regulator, industry - related to development or implementation of consumer policy. It is about ensuring that the right structures and principles are in place to deliver the outcomes.

We further submit that while the objective is framed in terms of the options that 'will provide consumers with the strong voice they need', the existence of a strong consumer representative voice will benefit not only consumers, but all industry stakeholders – the suppliers, policymakers, regulators, industry bodies.

The discussion around consumer representation is not just about the responsibility of suppliers. Whilst acknowledging that the industry has a role to play in enhancing the effectiveness of consumer representation in Australia, it is submitted that those who purport to represent consumer interests as advocates and representatives have a mutual requirement.

Consumer advocates must represent and be empowered by their constituency base so as to bring real value to the outcomes. As noted in many of the submissions to the Productivity Commission's Review of Australia's Consumer Policy Framework, investment in capacity building of consumer advocacy is essential for the system to work well.

¹ Including 'Consumer Driven Communications', 2004, views expressed in CA's Morgan Disney Review, CTN Submission to Productivity Commission, Deafness Forum letter to *IT Wire* as reported on 8 April 2008.

We also support the **wider objectives of the Australian Government** in conducting the Forum:

- i) to give consumers a more powerful and effective voice in the development of telecommunications policy, including code development;
- ii) to maintain a healthy relationship between industry and consumers in order for telecommunications market to be sustainable; and
- iii) to provide better consumer protection.

We submit that in order to achieve these wider objectives, discussion needs to focus on the future – that is, the effectiveness of the consumer representational model in the context of development of policy for and in a broadband converged environment.

Exploration of a range of options to achieve the objective of a more powerful and effective consumer voice will necessarily involve discussion and consideration of process, structure and resourcing. However, it is vital that this exploration is not constrained by reference to legacy models of engagement. It must be also informed by the broader context of the wider range of tools available to improve the consumer's experience, including technological tools, enhanced competition², and an increased focus on evidence-based outcomes-based approaches³.

These broader contexts are important in considering mechanisms to achieve the objective of 'better consumer protection'. In particular, we submit that the Forum should:

- consider the concept of 'consumer empowerment';
- acknowledge that the appropriate outcome for enhanced consumer protection or empowerment may not necessarily lie in more regulation, particularly as technology provides more opportunities for protection and empowerment;
- differentiate between differing classes of consumers, including consumers with special needs; and
- be positioned in the context of an environment of increasing complexity of products and services in the broadband convergence world.

² OECD Report: Enhancing Competition in Telecommunications: Protecting and Empowering Consumers', December 2007

³ 'Warning: Too Much Information Can Harm', A Final Report by the Better Regulation Executive and National Consumer Council, November 2007

5 The Future

The telecommunications industry has demonstrated a long-standing commitment to consumer engagement to drive better outcomes for consumers.

There are currently a variety of consumer representative models – see table at **Attachment A**.

Consideration of the most appropriate model of consumer representation in the future environment of broadband and convergence needs to start from the perspective of how best to contribute to the achievement of outcomes for the consumer and for the telecommunications industry.

We submit that the following issues need to be considered:

- i) Definition
- ii) Resourcing
- iii) Capacity Building and skills
- iv) Structure
- v) Research

5.1 Definition

The definition of what constitutes an appropriately formed consumer group – that is, a group which is authorized to represent a constituency - should be clarified. It is important to be able to identify the appropriate consumer representative to consult and the constituency that representative brings to the table so that input is obtained from the relevant sources.

The complexity and ubiquity of the products and services in the telecommunications market means that the type of consumer is diverse ranging from young to old, singles to families etc. It is not a case of one size fits all and Australia needs consumer representation that can respond to that dynamic. Consumer representatives need to have a skill base beyond an individual's own personal experience that can change and adapt. Importantly, they must be capable of reflecting the viewpoints and concerns of the consumers they purport to represent.

What is needed is a flexible representative model where the most appropriate consumer representatives or groups can be easily identifiable and engaged in a timely fashion. It is about the outcome for the end user and representatives must be able to understand and identify with different types of end users.

We submit that, in line with any structural reform, an appropriate accreditation or approval process should be established by the Australian Government to provide clarity and legitimacy to consumer representation⁴. We believe that this initiative will ultimately lead to better outcomes for all stakeholders especially consumers.

⁴ An example of an accreditation process in the industry is the Communications Alliance Consumer Register.

5.2 Resourcing

It is axiomatic that consumer groups need to be adequately resourced for them to be effective.

The current consumer representative model is supported by a combination of membership fees for the organisation, government funding and industry funding. For example, Communications Alliance provides funding for travel and accommodation for its standing Consumer Council and Disability Council. Additionally, ACMA and Communications Alliance jointly host and provide funding for the annual Consumer Dialogue.

The telecommunications industry should not view resourcing of effective consumer engagement as an unnecessary and costly expense. Rather, effective consumer engagement can significantly contribute to better commercial outcomes.

We submit that funding processes should be clarified and simplified and there is a strong role for Government in this process. When discussing any fundamental change to the consumer representative model, consideration should be given to establishing multi-year funding to help build capacity and create certainty for consumer group(s). Funding models should be targeted to include amounts for research, capacity building and skills training not just sitting fees.

5.3 Capacity Building and Skills

Many submissions were made to the Productivity Commission 'Review of Australia's Consumer Policy Framework' highlighting concerns with the lack of capacity in the current system.

The Draft Report of the Commission discusses the appropriate mechanism for providing additional government funding to build capacity in consumer advocacy. It concludes that:

'A preferable approach in the Australian environment would be to provide the additional assistance in a way that retains the benefits of having a range of advocacy bodies, but enhances their capacity to contribute to policy making. Specifically, the Commission is proposing that the Australian Government provide (modest) additional funding to help support:

- *The operating costs of a representative national peak consumer body; and*
- *The networking and policy development functions of advocacy bodies.*

*Importantly, eligibility for such funding should be subject to specific guidelines to promote high quality representation.'*⁵

In considering the appropriate structure and resourcing, we support an approach which would include guidelines to promote quality representation and an additional focus on capacity building.

⁵ Productivity Commission Draft Report on the Review of Australia's Consumer Policy Framework, Volume 1: Summary, p49.

5.4 Structure

We submit that in order to deliver outcomes for consumers in the broadband convergence environment there is a need for greater coordination and cooperation between consumer groups to enhance their effectiveness in policy development.

We therefore agree that there is merit in the Productivity Commission's Draft Recommendation that the Australian Government fund and establish a national peak consumer body that will be able to better coordinate the activities of consumer representatives.

It follows that there is merit, therefore, in considering the streamlining and consolidation of consumer groups in the telecommunications sector as part of the creation of such a body.

Other issues which relate to structure that could usefully be discussed at the Forum include:

- the interrelationship of this all-of-industry peak body with a communications-specific body;
- the extent of Australian government control and oversight over such a body;
- resourcing; and
- options for appropriate accreditation and approval process.

5.5 Research

A more effective response to consumer expectations and requirements for new services must be based on a better understanding of consumer practices and needs.

As noted in the Draft Report of the Productivity Commission:

'This inquiry has highlighted the paucity of relevant data and information necessary to properly assess many consumer policy issues...there is still only limited evidence on the extent of policy-relevant consumer detriment in Australia as a whole. Similarly, research into the relative effectiveness of different options for tackling particular consumer problems and of the determinants of vulnerability seems to have been lacking.

..the Commission considers that the provision by the Australian Government of earmarked funding for specified research on consumer policy issues would be desirable. With appropriate guidelines, such funding could, like additional support for general consumer advocacy, significantly enhance the quality of input into the policy making process at quite modest cost.⁶

We submit that these comments, while directed at all-of-industry approach, are pertinent for the communications industry.

Indeed, Communications Alliance has been concerned about the emphasis on anecdotal approaches rather than evidence and fact-based approaches. CA's Board has recently endorsed the establishment of the Communications Alliance Research

⁶ Productivity Commission Draft Report on the Review of Australia's Consumer Policy Framework, Volume 1: Summary, p49

Program, and the creation of a governance body to oversee the priorities and deliverables. The Research Program will include a focus on research topics relevant to consumers in the broadband convergence environment.

Communications Alliance has already commenced a wide ranging research project examining the interaction between the service provider and the consumer in an increasingly complex and changing broadband-enabled world.

We have undertaken market research on consumer issues and will repeat this annually to provide context and statistical legitimacy.

Communications Alliance is committed to the research program and has dedicated resources to ensure that it continues well into the future.

We will also partner with other stakeholders as appropriate, for example with ACMA's internal research division.

We note that other organisations around the world such as the OECD⁷ have recognised the benefit in basing discussions on the consumer satisfaction on fact based research rather than anecdotal evidence.

⁷ OECD Report: Enhancing Competition in Telecommunications: Protecting and Empowering Consumers', December 2007

6 Code Development

The telecommunications industry has always been committed, and remains committed, to ensuring that industry codes of practice contain provisions which provide appropriate community safeguards. To do otherwise is clearly not in the interests of either suppliers or consumers.

The statutory requirements in s117 of the *Telecommunications Act 1997* require that the voice of consumers has been taken into account in the development of an industry code of practice – including the requirement in s 117(1)(i) that ACMA is ‘*satisfied that at least one body or association that represents the interests of consumers has been consulted about the development of the code*’. To our knowledge, there has not been an occasion where ACMA has determined that the requirements have not been met.

As a result of the collaborative efforts of industry and consumers over the last decade, there is in place a significant suite of protections for consumers on the ACMA register. The industry codes have been developed predominantly by Communications Alliance (and its predecessor ACIF), but include codes developed by ADMA and IIA.

A clear demonstration of the commitment which industry has to listening to the views of consumers is the response to the call by consumers for a single industry code to replace the suite of CA Consumer Codes⁸.

The project to draft the Telecommunications Consumer Protections Code (the ‘TCP Code’) was completed within a period of 12 months, including consultation sessions with external stakeholders ACMA, the TIO, the ACCC and the Privacy Commissioner. The Steering Group which developed the Code comprised of two industry representatives and two consumer representatives, who acted on behalf of their wider constituencies. The drafting of the Code was undertaken by the law firm Baker & McKenzie and the role of the Steering Group was to provide oversight and ensure that the drafting met the objectives of the project.

The TCP Code was lodged with ACMA for registration in November 2007 and we understand it is undergoing internal ACMA processes.

It is significant that the methodology for development of the TCP Code comprised a small Steering Group with oversight responsibility of the drafting, rather than a wider Working Group actually undertaking the drafting.

This welcome change in methodology has been possible since the enactment of amendments to the *Telecommunications Act 1997* in 2005, enabling associations to be reimbursed for the costs of development of a consumer-related code. The actual costs are then recovered by ACMA from carriers through carrier licence charges.

The cost-reimbursement provisions are also significant for consumer participation in the development of consumer-related codes because they allow for the recovery of the costs of consumer time, travel and relevant expenses. In this way, it has enhanced the ability of consumer representatives to be involved in the development of consumer-related codes in a cost-effective and efficient manner.

⁸ See, for example, Consumer Driven Communications.

We submit that the significance of this amendment on the voice of consumers in the development process of codes should not be under-stated and that its impact has already been demonstrated in the development of the TCP Code.

The existence of the current suite of registered consumer-related Codes, the history of consumer involvement in the development of those Codes and the response of industry to calls for a different approach (i.e. the development of the TCP Code) demonstrate industry's commitment to solid consumer-oriented outcomes.

We re-state our firm commitment to continue to ensure that consumers have a powerful and effective voice when it comes to the development of Codes.

7 Conclusion/Summary

Consumers need a powerful voice in the development of telecommunications policy, and in the development of industry codes. This Forum offers an important opportunity to look at ways to enhance that voice.

The telecommunications industry and consumer representatives share a mutual responsibility to get this right. It is not about old processes and old ways of talking to each other. It is about a mutual recognition that effective consumer engagement is important and achievable. It is about agreeing to work together to get outcomes that benefit everyone – consumers and the industry. It is about compromise and a willingness to extend beyond the traditional concepts of commercial and consumer absolutes.

With the advent of the broadband age, it is imperative that we rise to the challenge and work collaboratively and cooperatively towards a more effective consumer representative model in Australia. The telecommunications industry is ready and willing to be part of the solution.

CONSUMER ENGAGEMENT

| | | Comms Alliance | ACCC | ACMA | TIO | Telstra | Optus |
|--|---|---|------|--|-----|---------|-------|
| ARATA | | Y | | | | | |
| Australian Association of Deaf | * | Y | | | | | Y |
| Australian Consumers Association | | | Y | Y | | | |
| Australian Financial Counselling and Credit Reform Association | * | | Y | | | Y | Y |
| Australian Council of Social Services | * | | | Y | | Y | |
| Australian Federation of Disability Organisations # (see TEDICORE below) | | Y x 2 (Chair of Disability Council and on CC in capacity as Chair of Comms Alliance Disability Council) | | Y (represented by Gunela Astbrink who also represents TEDICORE on Comms Alliance DC) | Y | Y | |
| Australian Seniors Computer Clubs Association | * | Y | | | | Y | |
| ATUG | | Y | | Y | | | |
| Blind Citizens Australia * | * | Y | | | | | Y |
| Central Land Council | * | | | | | Y | |
| Communications Law | | Y | Y | | | Y | |

| | | Comms Alliance | ACCC | ACMA | TIO | Telstra | Optus |
|---|---|----------------------------------|-------------|-------------|-------------------------------------|----------------|--------------|
| Centre | * | | | | | | |
| Consumers Law Centre Victoria | | | Y | | | | |
| CTN | | Y | | Y | Y | Y | Y |
| Councils of the Aging | * | | | | | Y | |
| Country Women's Association | * | Y | Y | Y | Y | | |
| Consumers Federation of Australia | | | Y | | | | |
| Deafness Forum | | Y | | | | | Y |
| Ethnic Communities' Council of Victoria | | Y | | | | | |
| Federation of Ethnic Communities Council of Australia | * | | Y | | | Y | Y |
| Internet Society of Australia | * | Y | | | | Y | |
| Isolated Children's Parents' Association of Australia | * | | | | | Y | Y |
| Legal Aid Qld | | | | | Y (represented by Loretta Kreet) | Y | |
| National Children's and Youth Law Centre | * | | Y | | | | |
| National Council on Intellectual Disability | | | Y | | | | |
| National Council on Intellectual Disabilities | | Y (represented by Loretta Kreet) | | | | | |
| National Council of Women in Australia | | | | | | Y | Y |
| National Farmers' | | | | Y | | | |

| | | Comms Alliance | ACCC | ACMA | TIO | Telstra | Optus |
|--|---|---|-------------|-------------|------------|----------------|--------------|
| Federation | | | | | | | |
| Physical Disability Council of Australia | | Y | | | | | |
| Public Interest Advocacy Centre | | | Y | | | | |
| SETEL | | Y | | | | Y | Y |
| Telecommunications Consumer Groups SA | | Y | | | | | |
| Tangentyere Council | | | Y | | | | |
| Tasmanian Council of Social Service | * | | Y | | | | |
| TEDICORE (see AFDO above) | # | Y (represented by Gunela Astbrink who also represents AFDO on ACMA) | | | | | |
| Wesley Mission | | | | | Y | | |
| Women With Disabilities Australia | * | Y | | | | | |
| Youth Affairs Council of Victoria | | | | | | Y | |

* Member or Association Member of CTN

Tedicore, Blind Citizens Australia, AFDO all have connections

In addition, ACMA CCF has representation from Comms Alliance, ACCC, TIO, DCIT



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