

# ****ACCC submission to the Department of Communications and Arts’ Issues Paper on the review of section 593 of the Telecommunications Act 1997****

November 2016

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## Executive Summary

The Australian Competition and Consumer Commission (ACCC) welcomes the opportunity to provide a submission to the Department of Communications and the Arts’ Issues Paper (Issues Paper) on the review of section 593 of the *Telecommunications Act 1997*. Since 2009, the Australian Communications and Consumer Action Network (ACCAN) has received funding under this provision as the peak telecommunications consumer representative body to provide consumer representation and conduct research in relation to telecommunications matters.

Consumer representation is a key element of an effective consumer safeguard framework. A peak consumer representative body can ensure that the interests of consumers are sufficiently taken into account in government, industry and regulatory decision-making processes. Since its formation in 2009, ACCAN has effectively represented the interests of a wide range of consumers in relation to telecommunications matters and we support the provision of funding to ACCAN to enable it to continue performing its functions.

The following submission sets out the ACCC’s views on the key questions raised in the Issues Paper. In summary:

* ACCAN has effectively fulfilled its role as the peak telecommunications consumer representative body by undertaking a range of activities including providing timely and relevant information to consumers and small businesses about communications matters, advocating on behalf of consumers and undertaking research on telecommunications matters. Importantly, it represents a wide range of consumer and small business interests that may not otherwise have an effective voice in industry, government and regulatory processes.
* ACCAN has undertaken a wide range of research projects on telecommunications matters. It also administers the Independent Grants Scheme (IGS), which funds projects relating to consumer communications issues. ACCAN’s research, and the funded research projects more generally, are regularly relied on by the ACCC in its regulatory and enforcement work. Such research also helps to inform and provide balance to broader industry discussions about telecommunications matters.
* Consideration could be given to two changes to the administration of the IGS. Firstly, there may be benefit in having representatives from the ACCC, the Australian Communications and Media Authority (ACMA) and/or the Department involved in providing input on the selection of research projects. Secondly, more flexibility could be given to the provision of grants to research projects, for instance, by providing the discretion to provide grants over the current limit of $60,000 for larger projects, and for periods longer than 12 months.
* ACCAN provides useful information and guidance to consumers and small businesses across a range of telecommunication issues. In particular, as the telecommunications specific consumer body, ACCAN has the technical skills and expertise to explain the range and complexity of telecommunications services and issues in language that is accessible for non-expert consumers.
* While we believe that different entities may be best placed to meet the education or information requirements of different consumers, overall we consider that the alternative funding arrangements identified by the Issues Paper are unlikely to achieve more effective consumer representation than the current arrangement.
* We support the provision of additional funding to ACCAN for the purpose of undertaking other activities associated with consumer representation, including consumer education and reporting on telecommunications products for low income consumers. In particular, there is merit in ACCAN having a more clearly defined role in cross-consultation arrangements between ACCAN, the ACCC and the ACMA on consumer education matters.

## Introduction

Section 593 of the *Telecommunications Act 1992* (Telco Act) empowers the Minister for Communications to provide funding to a consumer representative body and the conduct of research in relation to telecommunications matters. This is an important provision which, as noted in the Issues Paper, has the primary policy objective of ensuring that the interests of consumers are taken into account by the telecommunications industry, governments and regulators.

Consumers are key stakeholders in policy, industry and regulatory decision-making processes. Government policies and regulatory decisions on telecommunications issues are, ultimately, aimed at providing benefits to end-users of telecommunications services. For instance, the Australian Competition and Consumer Commission (ACCC) is responsible for administering the telecommunications access regime under Part XIC of the *Competition and Consumer Act 2010*, which has the objective of promoting the long-term interest of end-users. This is also one of the main objectives of the Telco Act.[[1]](#footnote-1) Further, the ACCC has a role in ensuring consumers more generally are protected against unfair business practices under the Australian Consumer Law (ACL). Ensuring that consumer interests are sufficiently taken into account in government policy development and regulatory decision-making processes is necessary for delivering decisions which achieve their objectives. To this end, effective consumer representation in these processes is critical.

Further, the regulatory policy incorporated into the Telco Act promotes the use of self-regulation[[2]](#footnote-2) and co-regulatory codes of practice. Consumer involvement in the development of such codes, through a peak body such as the Australian Communications Consumer Action Network (ACCAN), which has the requisite technical knowledge, is essential to ensure that consumer confidence in such processes is retained and that consumer interests are given proper consideration in the developments of industry codes.

We consider that effective consumer representation in government, industry and regulatory processes is built upon a number of factors. The interests of consumers need to be represented through an independent body that can engage directly and effectively with different interest groups, undertake research to better understand a broad range of consumer perspectives and has sufficient technical and subject matter expertise to be able to provide informed and relevant views. There also needs to be an understanding of the policy and technological background to such matters so that the impact and implications of changes can be properly considered and assessed.

It is also critical that consumer views and interests are presented in a way which enables the decision maker to take them into account. Research and analysis need to be undertaken to provide evidence to support to these views. There may also be a need to develop ongoing relationships with industry or government stakeholders so that consumer representation occurs outside public consultations and formal inquiries.

We consider that when assessing the effectiveness of a consumer representative body, it is relevant to consider these factors in evaluating its activities.

## Effectiveness of ACCAN’s representation of consumer interests

We consider that as the peak consumer representative body for telecommunications, ACCAN has effectively represented a wide range of consumers. Because it has expertise and technical knowledge of telecommunications matters, it is able to engage on a range of complex matters and assess the implications or impacts for consumers more effectively than a general consumer body.

*Representing diverse consumer and small business interests*

As noted in the Issues Paper, ACCAN was formed in 2009 to address a widely held concern that there was fragmented consumer representation. ACCAN’s formation provided a uniform voice for various consumer groups that were operating independently and less effectively. The Issues Paper invites comment on whether the diverse interests represented by ACCAN mean that it is difficult to develop a united position on issues to accurately represent the breadth of consumer interests.

As with other markets, the telecommunications market has seen greater consumer diversity in terms of increased numbers of sophisticated consumers who are ‘tech savvy’ but also a wider range of consumers who lack digital literacy skills. In this environment, it is challenging for a consumer representative body to present a united or homogeneous consumer view. It is therefore unsurprising that in many cases, the views or interests of specific consumer groups, such as low income, or disadvantaged consumers are advanced in policy processes. They will often represent the minimum level of protection that should be in place, without restricting more sophisticated consumers from participating more actively in the market. We consider that ACCAN has effectively represented the interests of all consumers while giving particular focus to the interests of those with particular needs where appropriate.

ACCAN’s participation in the ACCC’s regulatory processes has provided an appropriate balance of consumer views between representation of general consumers and those with particular needs. Similarly, ACCAN’s engagement with the ACCC on enforcement and compliance matters also raises important issues that are likely to impact all consumers and users of telecommunications services (discussed further below).

We note that ACCAN’s policy priorities for 2016–17 identify eight priority areas which encompass issues that are important to all consumers (e.g. competition and market structure, digital literacy and privacy) and those that are important to particular segments of consumers (e.g. affordable communications and accessibility). In particular, we note ACCAN’s advocacy for improving digital literacy as a key prerequisite to digital inclusion.[[3]](#footnote-3) We consider digital literacy is not just relevant for particular segments of the consumers, such as low income, disabled or elderly consumers. As technologies constantly evolve and change and more services are provided online, improving digital literacy is important to all consumers to ensure that they are can participate fully in social, economic and political life.

ACCAN also represents the interests of small businesses as end-users of telecommunications services. For instance, in its submission to the ACCC’s mobile terminating access service (MTAS) declaration inquiry in 2014, ACCAN discussed how the declaration of a SMS termination service may affect the prices for application-to-person SMS services which small businesses use to efficiently communicate with their customers.[[4]](#footnote-4) ACCAN also provides useful information specifically targeted at small businesses and commissioned a study on small businesses’ use of telecommunications services.[[5]](#footnote-5) This segment of the market does not often have the resources to respond to regulatory processes, and ACCAN’s representation of small business interests provides a valuable perspective.

### Engaging in government, industry and regulatory processes

Since ACCAN’s formation in 2009, the ACCC has received over 20 submissions to a range of ACCC regulatory inquiries. This is more than the combined number of submissions that the ACCC received from ACCAN’s predecessors from 1997 to 2009. Recent inquiries in which ACCAN provided input include the broadband speed claims consultation, the wholesale ADSL declaration inquiry in 2016, the declaration inquiry for superfast broadband access service (SBAS), and consultation on transitional arrangements under Telstra’s migration plan. With a good understanding of the regulatory framework that underpins the ACCC’s functions as well as knowledge of the telecommunications issues that we examine, ACCAN has been an effective advocate for consumers’ interests in these consultations, which has informed our decision-making processes.

In addition to providing formal submissions in regulatory processes, ACCAN frequently engages with the ACCC on its enforcement and compliance work on consumer protection issues. ACCAN has assisted the ACCC in identifying and defining consumer problems within the telecommunications sector. For instance, in 2013 ACCAN engaged with the ACCC on issues of unfair telecommunications contract terms under the ACL. ACCAN conducted a review of standard consumer contracts in the telecommunications industry and brought to the ACCC’s attention problematic contract terms of individual service providers.[[6]](#footnote-6) This led to the ACCC taking its first legal proceedings under the unfair contract terms provision against Bytecard Pty Limited.[[7]](#footnote-7)

In addition, ACCAN is a member of the ACCC’s Consumer Consultative Committee and has contributed to raising awareness of emerging consumer issues that fall within the ACCC’s jurisdiction. On a number of occasions, ACCAN has referred matters to the ACCC relating to advertising material published by service providers which may raise concerns under the ACL, such as insufficient disclosure of data allowances restricted to peak and off-peak periods. These have led to the ACCC engaging with service providers to address these concerns and have resulted in an improvement in their advertising practices for the benefit of consumers.

Under the Telco Act, ACCAN is required to represent consumer interests in the development of industry codes. Many of these codes address matters that directly impact consumer interests. ACCAN’s contribution in these processes is necessary for providing a balanced view and ensuring that the output of the development process is fair and informed.

ACCAN also provides a forum for the ACCC to engage with a wider group of consumers who may be impacted by the ACCC’s work and who may not otherwise have the resources or opportunities to directly engage with the ACCC. For instance, ACCC representatives were recently invited to attend the ACCAN’s Rural, Regional and Remote Telecommunications Advisory Forum to present on the ACCC’s market study and other related matters.

### Research on telecommunications consumer matters

Consumer focused research is an essential contribution to consumer policy and regulatory matters. While government is often well placed to conduct such research, many consumers are unwilling to engage as openly or directly with a government body as they will be with an independent representative body. Independent research may also identify new or emerging areas of concern that will feed into policy development.

ACCAN has commissioned research into a wide range of consumer matters in the telecommunication sector since its formation in 2009. The outputs of these research projects provide valuable evidence-based observations and insights on various telecommunications matters and contribute to a more informed debate on a broad range of regulatory and policy processes.

The ACCC has referenced a number of ACCAN research projects in its regulatory work, as noted in the Issues Paper. For instance, in the ACCC’s consideration of the broadband speed claims project, ACCAN’s research *Broadband Literacy* provided evidence that consumers often do not understand broadband related information and they often overstate their confidence and knowledge when purchasing broadband services. This highlights a need for better and more comparable consumer facing information to assist consumers to assess and compare offers made by different retail service providers, and to select a service that best meets their needs.[[8]](#footnote-8) More recently, research into competition issues, such as *The state of competition in the Australian mobile resale market* has provided a useful insight into the resale market and the range of offers available for consumers, which offered a different perspective to the competition assessments undertaken by the ACCC.

ACCAN has also conducted research which has had important implications for government policies. For instance, ACCAN commissioned a study of household adoption of the National Broadband Network (NBN) in Brunswick, one of the first release sites in mainland Australia.[[9]](#footnote-9) The study examined the take-up and use of NBN services in Brunswick and the factors which influenced these decisions as well as the broader implications of the adoption of high-speed broadband. This research contributed to identifying some of the early NBN roll out lessons.

ACCAN’s research has also identified gaps in consumer information on a range of matters relevant to consumers generally as well as specific consumer groups. Examples of these research projects include *Megacharge: the impact of session rounding on mobile data costs*, *Global roaming price comparison*, *Phones and the Internet: Your rights in Australia – A community education program for refugees and new migrants* and *Sociability: social media for people with a disability*.[[10]](#footnote-10)

### Information and guidance for consumers and small businesses

Policy development and regulatory processes on telecommunications issues are inherently complicated. Consumers generally will not have the expertise that industry stakeholders have in understanding the issues considered in these processes, even though they have the potential to affect the telecommunications services they purchase in the retail markets. This puts consumers at a disadvantage when it comes to advocating their interests in these processes, especially when their interests’ conflict with those of industry stakeholders who have the relevant expertise and are likely to be better informed of these processes. In these processes, an independent consumer body that has the requisite expertise and technological knowledge provides an important perspective.

An example of ACCAN’s information that helps consumers engage in government processes is its’ Community Consultation Guide. ACCAN’s second edition of Community Consultation Guide, which is designed to help communities address issues with mobile coverage in their areas, sets out steps to help communities understand factors which affect investment decision on mobile infrastructure and how to put together an effective business case for investment. It is a timely contribution to help communities provide input to the government’s Mobile Black Spot Programme.[[11]](#footnote-11)

A consumer body also provides an important source of information for consumers and small businesses impacted by policy or regulatory processes. ACCAN has a good record of providing useful, informative guides to key issues in the telecommunications sector to inform consumer decision making. At a time where almost all government resources are provided online, ACCAN also caters for some segments of consumers who may not be able to access online content by providing paper-based information and resources. Further, many consumers will not see government as a reliable source of information on key issues, particularly in relation to policy matters. A well-resourced consumer body with expertise and knowledge of telecommunications matters is more likely to be accessed by such consumers and small businesses.

## Consideration of alternative funding arrangements

The Issues Paper discusses and seeks views on alternatives to the current funding arrangements under section 593 of the Telco Act. We provide comments on these alternative arrangements below.

### General consumer body

An alternative model that has been put forward in the Issues Paper is for consumer representation to be undertaken by a general consumer body, such as Choice, and seeks views on whether such a body would be able to sufficiently cover the range and complexity of telecommunications issues and develop relationships with government, industry and regulators.

We consider that general consumer bodies can provide a significant contribution to policy and regulatory processes, including those in telecommunications. Bringing a broader perspective and knowledge of developments in other regulatory frameworks, can be a useful comparison. However, any support in terms of funding or otherwise that the government seeks to provide to general consumer bodies should not come at the expense of the funding provided to ACCAN.

The energy sector in Australia saw the establishment of a consumer representative body, Energy Consumers Australia (ECA) in 2015. This development was in response to an identified need to have an industry specific consumer body for an industry that provides essential services to consumers. The ECA was formed to provide a strong and independent voice for consumers and small businesses on energy matters. It not only provides consumer advocacy and representation, but also undertakes research and distributes grants that support consumer education activities in the energy market.[[12]](#footnote-12)

We consider that telecommunication services have become essential services for many consumers. Telecommunications products can also be exceedingly complex, constantly changing and difficult to compare in many cases. As such, the telecommunications industry also needs an industry specific consumer body for the reasons below.

ACCAN has developed an in-depth understanding of telecommunications policy and regulation which informs its engagement and advocacy work. It is well placed to engage with the technical complexity of telecommunications matters and has the expertise to assess and develop informed responses to consumer matters. A generalist consumer body is less likely to have the resources or capacity to develop such knowledge or expertise. This is reflected in the fact the ACCC has not received submissions from consumer bodies other than ACCAN in its telecommunications regulatory inquiries in recent years. Like energy, we consider that telecommunications services are essential services for consumers and the importance of these services warrant an industry-specific consumer body with dedicated resources to represent the interests of consumers in a wide range of processes.

The changes and challenges facing the telecommunications industry, and the digital world more broadly, also support the need for a strong and independent industry specific consumer body. The NBN roll out has progressed considerably in the past 18 months, and we expect the next 3 years will be the peak period for the rollout. While there are clear processes in place to assist consumers as they migrate, ensuring there is a well-funded consumer body with the expertise and contextual understanding of migration issues will be important to assist consumers. More broadly, the growth in digital technologies across a range of industries, such as the finance industry, smartphone payment capabilities, and the Internet of Things is impacting consumers in many other sectors. A consumer representative body that has the expertise to understand these technologies is more relevant than ever.

Furthermore, we consider that a telecommunications specific consumer body is more likely to develop and maintain ongoing relationships with industry and government stakeholders, as well as other consumer groups. Importantly, we consider that ACCAN has developed a strong reputation as the peak consumer body for telecommunications issues, whom consumers - and other consumer bodies - look to for information and assistance. There is merit in retaining a consumer body with a long standing familiarity with consumers.

ACCAN has been able to engage staff who have the expertise in technical matters, the skillset to respond to policy and regulatory developments, and economic skills to understand communications markets. This allows them to respond efficiently and effectively to emerging issues in those industries. In addition to identifying consumer issues, it also means ACCAN is well placed to suggest solutions to such issues. We believe there would be a real risk that the expertise of ACCAN could not be easily replicated if a general consumer body, rather than a telecommunications specific consumer body, was funded to respond to telecommunications consumer matters.

### Bodies that represent consumers with particular needs

Views have been sought on whether funding should be provided to a body or bodies that represent consumers with particular needs such as those with a disability or from culturally and linguistically diverse backgrounds, and leave other consumers to be represented by a general consumer body.

As discussed above, we consider there is a need for a telecommunications specific body like ACCAN to represent all consumers. As noted in the previous section, we consider that currently ACCAN represents the interests of general consumers as well as consumers with particular interests and maintains an appropriate balance between these interests. We are not convinced that the alternative arrangement suggested in the Issues Paper would lead to more effective consumer representation in telecommunications. In fact, there is a risk that the alternative arrangement may result in fragmented consumer representation, which the formation of ACCAN was intended to eliminate, and overall less effective representation for all consumers.

We also consider that from an efficiency point of view, a single consumer body like ACCAN which is resourced to represent all consumers, and has the necessary expertise, is more likely to benefit from scale economies than a number of smaller consumer bodies that represent various interests.

The Issues Paper also notes that there are a number of smaller groups that represent regional consumers on telecommunications issues, such as the Isolated Children’s Parents’ Association (ICPA), Better Internet for Rural Regional and Remote Australia (BIRRR) and various federations and associations of farmers. The Issues Paper suggests that regional consumers in creating these groups may be seeking additional support and advice on telecommunications issues above that which ACCAN is able to provide.

We note that ACCAN has over 112 organisational members and many of these are specific consumer groups that focus on telecommunications issues, including Media Access Australia, Broadband for the Bush and ICPA. We understand that ACCAN works closely with these groups and, as the peak body, engages with government and regulatory processes representing the views of its members.[[13]](#footnote-13) We consider that the creation of these smaller consumer groups (many of which were created prior to ACCAN’s formation[[14]](#footnote-14)) which collaborate with ACCAN on various matters contributes to the overall effectiveness of consumer representation in telecommunications but it does not replace or detract from the critical role that ACCAN plays. It again reflects the diverse needs and interest of consumers.

A parallel example can be drawn from the telecommunications industry, where various representative bodies have been formed, some with overlapping membership. For instance, there is a peak industry representative body, Communications Alliance, which represents the interests of a wide range of industry stakeholders. At the same time, there are other, industry representative bodies, which focus on a particular segment of the industry. Examples include the Australian Mobile Telecommunications Association which represents the mobile telecommunications industry and the Competitive Carriers’ Coalition which represents the non-dominant telecommunications carriers. All of these industry bodies are important in ensuring that the diverse and sometimes competing interests of industry stakeholders are adequately represented in government and regulatory processes. The same applies to consumer representation in telecommunications.

### Whether government should undertake consumer consultations and research

#### Should government undertake direct surveying and consultation?

In many government and regulatory processes, public consultation is already required to be conducted and consumers are invited to make submissions to these consultations. However, as noted earlier, consumers are unlikely to have the expertise or resources to understand and engage with many of the issues considered in these processes and would not be able to effectively provide their views. As such, a consumer representative body is important to ensure that consumers’ interests are properly taken into account in these processes.

We reiterate the comment earlier that effective consumer representation is premised upon a number of factors, including close engagement with various interest groups and the need to develop ongoing relationships with government and regulatory stakeholders. Many of these require a range of activities outside the formal consultation process, as exemplified by ACCAN’s work. We do not consider that it is possible for a department within the government to undertake all of these activities which are necessary to achieve effective consumer representation.

Further, if a decision-maker (such as the Department) directly measures consumer views through consultations and surveys, it means there would be no one actively *advocating* for consumers’ interests. This is because a decision-maker is required to objectively assess all views presented to it by parties having various interests. It would be impossible and inappropriate for a decision-maker (or a division within the decision-maker) to advocate for the interests of any particular party. This would put consumers at a disadvantage against other parties who have conflicting interests with consumers and who are better resourced and able to actively advocate for their interests.

#### Should government provide grants to an independent consumer representative body to conduct research?

ACCAN currently administers the Independent Grants Scheme (IGS) which funds projects which, among other things, undertake research on telecommunications matters. Views have been sought on whether it is appropriate for government to provide grants to a consumer representative body to undertake research or whether it would be more appropriate for such research to be undertaken by the Department’s Bureau of Communications Research (BCR) or universities.

We consider that while this is possible, it may significantly reduce the effectiveness of consumer representation in government and regulatory processes. It may also result in consumer issues competing against other research priorities.

The IGS selects projects through an independent grants panel, members of which are selected through an open process for a three year period. Panel members are selected in their individual capacity for their expertise. The Scheme has been the subject of several independent reviews, the most recent of which found the Scheme to be fair, accountable and transparent.

We believe it is appropriate for grants to be provided to a consumer representative body to fund research, representation or education projects for consumers. ACCAN’s administration of the scheme identifies clear priorities with a focus on consumer outcomes. Projects that examine consumer behaviours, and which focus on skills, digital literacy and understanding promote participation in communications markets. As noted above, we consider telecommunications to be essential services for the vast majority of consumers and we would support the ongoing funding of the grant scheme to promote consumer participation in communications markets.

The BCR has a specific expertise in economic and statistical research. Many of its research projects have provided insights into trends and developments in the communications sector, including digital productivity gains and open data. While these projects are important in understanding industry and technology trends, they complement, rather than replace the need for consumer focused research.

As discussed earlier, ACCAN’s ability to commission research projects is an important contributor to its overall ability to effectively represent consumer interests. In addition to administering the IGS, we understand that ACCAN also has a research budget from which it undertakes research to provide an evidence base for its policy and advocacy work. Taking away the resources for ACCAN to continue to conduct research projects is likely to materially reduce its ability to represent consumers’ interests on important issues and to encourage the full participation of consumers in communications markets.

More generally, we consider that consumers are more likely to identify with an independent consumer body that represents their interests. Many consumers may not be comfortable with providing information and views directly to a government department for various reasons. This would affect the government’s ability to obtain meaningful information from consumers as part of its consultations or research projects.

We note that ACCAN has frequently consulted the ACCC in the past on its priority areas for research project under the IGS. We believe there is merit in having a more expanded consultation arrangement where a representative from either or both of the ACMA and the ACCC or from the Department is involved in the selection of projects. For example, regulatory or policy input into the priorities for project selection could be provided could assist to provide more focus for the types of projects being undertaken.

Further, consideration could also be given for providing more flexibility for some projects. Currently grants are provided for projects completed within 12 months and capped at $60,000. There may be benefits to conducting longer term projects, for example a time series study of data usage for consumers. Similarly, grants of more than $60,000 could be offered for larger projects, subject to consultation with the Minister or the Department.

## Funding for other activities

The Issues Paper raises the possibility of funding other activities under section 593 of the Telco Act. We support the provision of additional funding which may contribute to more effective consumer representation in telecommunications. The Issues Paper identifies two possible activities which are discussed below.

### Consumer education

The Issues Paper asks whether consumer education is an activity of a consumer representative organisation that should be funded by the government, or whether it would be preferable for the government to fund the ACMA to undertake those activities.

As discussed earlier, ACCAN is already undertaking some consumer education activities in providing useful information on various telecommunications matters and services to consumers and small businesses. In doing so, it helps to promote a more competitive market by reducing information asymmetry between providers and end-users. If the government intends to provide funding for undertaking more expansive consumer education activities, we support the provision of this funding to ACCAN. We consider ACCAN has the experience and capability to effectively undertake consumer education. As the peak consumer representative body for telecommunications matters, it also represents a trusted source of information and assistance for consumers.

We also note that regulators such the ACCC and the ACMA also have information on their websites which are intended to educate and inform consumers on telecommunications matters. There is benefit in ACCAN having a more defined role in coordinating consumer education material on telecommunications matters between ACCAN and the regulators. This could improve consistency in information provision to consumers and reduce the potential for overlap.

#### Report on telecommunications products for low income consumers

The Issues Paper also raises the possibility of providing funding to assess and report on retail telecommunications products suitable for low income consumers. The Issues Paper noted that this would subsume the function currently undertaken by Telstra’s Low Income Measures Assessment Committee (LIMAC).

Under Telstra’s carrier licences condition, it is required to maintain and resource the LIMAC, which is comprised of representatives of low income consumer advocacy groups. Telstra is also required to offer products and arrangements for low income consumers which have been endorsed by LIMAC. It is also required to consult with LIMAC before making any significant changes to the low income package.[[15]](#footnote-15) We note that originally, the LIMAC was required to report to the Minister annually on the effectiveness of Telstra’s low income package but this requirement was removed in 2014.[[16]](#footnote-16)

While we understand the regulatory burden of preparing such reports, we consider that transparency of low income measures is important for consumers, as well as representatives of consumers, including financial counsellors, aged care groups and general consumer bodies. Information which reports on and assesses the telecommunications products available from a range of service providers that are suitable for low income consumers is a useful tool. The report would need to be easily accessible to consumers and regularly updated.

We consider that ACCAN is well placed to prepare such a report and support the provision of additional funding to ACCAN for this purpose.

### Other activities

Telecommunications markets evolve rapidly and consumer bodies may need to respond to issues and developments which have not been anticipated. In such a case, additional funding for the purpose of understanding and responding to these matters would help ensure that consumer representation is responsive to change.

For this reason, we consider that it would be useful to have a flexible mechanism under section 593 for grants to be provided to ACCAN or other consumer bodies with relevant expertise to undertake discrete projects or activities in response to specific issues or developments that arise from time to time.

As noted earlier, we support the government providing funding to consumer groups other than ACCAN. However, the provision of this funding should not be at the expense of reduced funding for ACCAN. Therefore, we consider that the additional funding mechanism suggested may be one way of providing support to groups that represent consumers with specific needs on issues that particularly affect their interests.

## Conclusion

As discussed above, we consider that ACCAN has effectively fulfilled the role of representing the interests of consumers in relation to telecommunications. In our observation, it has engaged with a broad range of consumers with diverse interests and undertaken research to build an evidence base that supports policy and regulatory developments.

We consider that the challenges facing the telecommunications sector in particular, and the developments and rollout of digital technologies in other sectors, mean that the expertise of a telecommunications specific consumer body is more relevant than ever. For these reasons, we support the continued provision of funding under section 593 Telco Act to ACCAN. We do not consider that the alternative funding arrangements identified in the Issues Paper are likely to achieve more effective consumer representation in telecommunications. We also support additional funding to be provided to ACCAN to undertake additional activities including more expansive consumer education activities.

If you have any questions about any of the issues raised in this submission please contact Clare O’Reilly.

1. Section 3(1) of the Telco Act. [↑](#footnote-ref-1)
2. Section 4 of the Telco Act. [↑](#footnote-ref-2)
3. For example, see ACCAN, *Why digital inclusion matters*, November 2015; ACCAN, *The Digital Age Project, prepared for ACCAN by the Southern Cross University*, July 2015. [↑](#footnote-ref-3)
4. ACCAN, *Submission to the ACCC on ACCC’s preliminary view on application-to-person SMS*, 30 May 2014. [↑](#footnote-ref-4)
5. For example, see a range of small business tip sheets on ACCAN website at: <http://accan.org.au/small-business/small-business-tip-sheets>; also ACCAN, *Informing small business: Examining fixed phone and broadband products*, prepared for ACCAN by Market Clarify, October 2015. [↑](#footnote-ref-5)
6. ACCAN, *Telco Fine Print Project*, December 2013. The ACCC also conducted a review of unfair contract terms across various industries, including the telecommunications industry. See ACCC, *Unfair contract terms: Industry review outcomes*, March 2013. [↑](#footnote-ref-6)
7. ACCC media release, *Court declares consumer contract terms unfair*, 30 July 2013. [↑](#footnote-ref-7)
8. ACCC, *Broadband Speed Claims: Discussion paper*, July 2016, p. 9. See also ACCAN, *Broadband Literacy*, prepared for ACCAN by Galaxy Research, January 2016. [↑](#footnote-ref-8)
9. ACCAN, *Broadbanding Brunswick: High-speed broadband and Household media ecologies*, prepared for ACCAN by the University of Melbourne and Swinburne University of Technology, March 2013. [↑](#footnote-ref-9)
10. ACCAN, *Megacharge: impact of session rounding on mobile data costs*, prepared for ACCAN by the University of Technology Sydney, March 2016; ACCAN, *Global roaming price comparison*, Prepared for ACCAN by ACA Research, December 2013; ACCAN, *Phones and the Internet: Your rights in Australia – A community education program for refugees and new migrants*, prepared for ACCAN by Footscray Community Legal Centre, July 2012; ACCAN, *Sociability: social media for people with a disability*, prepared for ACCAN by Media Access Australia, March 2012. [↑](#footnote-ref-10)
11. See ACCAN, *Community consultation guide*, available at: <https://accan.org.au/consumer-resources/community-consultation-guide>. [↑](#footnote-ref-11)
12. Energy Consumers Australia, *Annual Report 2015/2016*. [↑](#footnote-ref-12)
13. An example was provided earlier where ACCC representative attended ACCAN’s Rural, Regional and Remote Telecommunications Advisory Forum. [↑](#footnote-ref-13)
14. ICPA for example was formed in the early 1970s. [↑](#footnote-ref-14)
15. Carrier Licence Conditions (Telstra Corporation Limited) Declaration 1997, clause 22. [↑](#footnote-ref-15)
16. Carrier Licence Conditions (Telstra Corporation Limited) Declaration 1997 (Amendment No. 2 of 2014). [↑](#footnote-ref-16)