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10 August 2018

Communications Alliance  
PO Box 444  
Milsons Point NSW 1565

Dear Communications Alliance,

### **Telecommunications Consumer Protections (TCP) Code**

As the peak body for consumer organisations in Australia, Consumers' Federation of Australia (CFA) thanks Communications Alliance for the opportunity to submit to the review of the TCP Code.

CFA represents a diverse range of consumer organisations, including most major national consumer organisations. Our organisational members and their members represent or provide services to millions of Australian consumers.

CFA advocates in the interests of Australian consumers. CFA promotes and supports members' campaigns and events, nominates and supports consumer representatives to industry and government processes, develops policy on important consumer issues and facilitates consumer participation in the development of Australian and international standards for goods and services. CFA is a full member of Consumers International, the international peak body for the world's consumer organisations.

### **Consumer protection in the telecommunications industry**

CFA recognises that the TCP Code represents a core element in the consumer protection framework for the telecommunications industry. Unfortunately, for too long the self-regulatory approach in the telecommunications industry has allowed business interests to be prioritised over those of consumers. This has resulted in a weak and difficult to enforce TCP Code that fails to offer adequate consumer protections and drive retail service providers (RSPs) to be accountable to the responsibilities of providing an essential service.

The amendments presented in the draft Code do not go far enough to fill the gaps in consumer protection and strengthen the requirements on providers to fairly and ethically deal with customers.

CFA strongly supports the recommendations put forward in the submission by the Australian Communications Consumer Action Network (ACCAN) notably regarding the following areas:

- Billing
- Customer service
- Customer access to records
- Selling practices
- Credit assessment
- Financial hardship

CFA urges Communications Alliance to take the opportunity presented by this review to develop and strengthen the TCP Code to make it fit for purpose in a fast-evolving telecommunications environment in which consumers are increasingly relying on these services.

CFA would also like to take the opportunity to provide comment on a few key consumer issues where the Code must be strengthened.

### **Selling practices**

Poor selling practices have long been a serious problem in the telecommunications industry and are the root cause of many complaints to the Telecommunications Industry Ombudsman (TIO). The consumer movement has been advocating for change to selling practices that are aggressive, predatory and driven by incentives and sales targets. It has become increasingly evident that consumer detriment resulting from such practices is significant and growing whereby many consumers are pushed to financially over-commit to products that are unaffordable and unsuitable for their circumstances.

Confusing product marketing further adds to this issue. The complexity of telecommunications products enables RSPs to use industry jargon, product bundling and long, complicated contracts to further confuse consumers. These techniques can cloud consumer decision-making and make it easier for sales representatives to sign consumers to unsuitable services.

The Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry has exposed widespread issues with the selling practices used by banks. Unfortunately, the experiences of consumers with telecommunications providers are very similar. Consumer advocates consistently report cases of consumers who have been contracted to a service that is completely beyond their means and have resulted in the consumer being liable for thousands of dollars of debt.

Recent developments in financial services law around product suitability<sup>1</sup> should be similarly adopted by the telecommunications industry. Providers should be required to identify the appropriate target market for different products and have product governance arrangements to ensure a consumer is not sold a product that is unsuitable for them.

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<sup>1</sup> See Treasury Laws Amendment (Design and Distribution Obligations and Product Intervention Power) Bill 2018: <https://treasury.gov.au/consultation/c2018-t312297/>

It is time for the telecommunications industry to realign its interests to those of consumers. The principles of fairness, honesty and suitability must underpin selling practices and the attitudes of sales representatives when signing consumers to post-paid services. CFA endorses the recommendations made by ACCAN to amend section 4.6 in the TCP Code.

### **Credit assessment**

In conjunction with improved selling practices, CFA notes that the lack of clear requirements in the TCP Code for a credit assessment leaves the door open to mis-selling and financial over-commitment by consumers. In instances where consumers are signing up to post-paid ongoing contracts with expensive devices, there must be adequate checks in place to ensure the product is affordable for the consumer. An unenforceable guidance box on credit assessment does little to place the necessary responsibility on RSPs to ensure products are properly matched with customers.

CFA proposes that the telecommunications industry be bound by a responsible lending obligation for products provided as credit.

### **Financial hardship**

The Rank the Telco report<sup>2</sup> illustrated that financial hardship practices in the telecommunications industry are poor. Financial counsellors rated the approach to financial hardship in the industry as worse than their experiences with the banking, energy and even debt collection sectors.

There are several key issues with financial hardship practices in the telecommunications industry:

- Information about how to access a RSPs financial hardship program is often difficult to find
- The assessment process can be very onerous for customers, requiring extensive paperwork and proof of hardship
- The options available to customers facing hardship are generally underpinned by debt repayment rather than keeping a customer connected to an essential service

There is an opportunity in the review of the TCP Code to shift the industry's attitude towards customers experiencing situations of financial hardship. The Code must require RSPs to make their financial hardship policies readily available to customers, to ensure the application process is as easy as possible and that the options available to customers facing hardship are flexible and underpinned by keeping customers connected to an essential service.

Many banks and utility retailers take the approach that as soon as a customer misses a payment or contacts them about payment difficulties they are automatically put on an appropriate payment plan or placed in their hardship program. It is time for the telecommunications industry to take the same approach.

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<sup>2</sup> FCRC 2017: <https://accan.org.au/files/Grants/Rank%20the%20Telco%20Report.pdf>

## **Customer service and customer access to records**

Customer service in the telecommunications industry is failing to meet the needs of modern consumers and can be a very frustrating and stressful experience. Inadequate customer service has meant customers carry what can be very heavy costs in terms of both time and money. The Australian Consumer Survey 2016 commission by Treasury revealed that the time spent by consumers dealing with problems with their telecommunications service is costing them on average \$315 per problem<sup>3</sup>.

ACCAN's recently released customer service survey<sup>4</sup> also demonstrated that telecommunications consumers are spending a long time seeking a resolution when they contact their provider, experience ill-informed customer service staff, and struggle to have their communications needs accommodated for. The ACCAN survey revealed significant issues with record keeping by customer service staff whereby almost 60% of respondents reported needing to repeat the details of their problem on subsequent contacts, with some needing to do so over 5 times.

CFA is particularly concerned about issues with record keeping and the flow-on effect this has for customer access to records. Customers must have the right to access records about interactions they have had with their service provider and the Code must reflect this right.

CFA supports ACCAN's recommendation of setting customer service benchmarks to drive improvements in wait times, first contact resolution, and record-keeping.

Should you have any questions about this submission I can be contacted via [chair@consumersfederation.org.au](mailto:chair@consumersfederation.org.au) or my personal mobile number 0415 223 211.

Yours sincerely,



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

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<sup>3</sup> The Treasury 2016: <http://consumerlaw.gov.au/files/2016/05/ACL-Consumer-Survey-2016.pdf>, p.63

<sup>4</sup> ACCAN 2018: [http://accan.org.au/Can%20You%20Hear%20Me\\_v6\\_accessible.pdf](http://accan.org.au/Can%20You%20Hear%20Me_v6_accessible.pdf)