

Thursday, 30 September 2021

By email: secretariat@rtirc.gov.au

2021 Regional Telecommunications Review Secretariat
Department of Infrastructure, Transport, Regional Development and Communications
GPO Box 594
CANBERRA ACT 2601

Dear Madam/Sir

Re: Regional Telecommunications Review

Thank you for the opportunity to make a submission to the 2021 Regional Telecommunications Review. This joint submission is made on behalf of Consumer Action Law Centre (**Consumer Action**) and the Victorian Aboriginal Legal Service (**VALS**). You can read more about the contributors to this submission at **Appendix A**.

We regularly assist Victorians in disputes against telecommunications providers. Often these disputes relate to mis-selling, for example, misleading or deceptive sales practices or selling customers inappropriate or unaffordable devices or plans. Other disputes often relate to inappropriate financial hardship support, and disconnections or restrictions of service.

Through our casework, including Consumer Action and VALS' integrated practice project, we have seen these issues having a significant impact in Victorian Aboriginal communities. As such, we have limited our submission to responding to Question 7 in the Issues Paper:

What can be done to improve the access and affordability of telecommunications services in regional, rural and remote Indigenous communities?

Telecommunications issues impacting Aboriginal communities

Ten per cent of calls to Consumer Action's legal practice from Victorians who identified as Aboriginal and/or Torres Strait Islander between 1 January and 31 December 2020 related to telecommunications issues.¹ In our joint report *Consumer Issues in Victorian Aboriginal Communities during 2020*, we noted that in 2020 a common theme of

¹ VALS and Consumer Action, *Consumer Issues in Victorian Aboriginal Communities during 2020*, June 2021, <https://consumeraction.org.au/consumer-issues-in-victorian-aboriginal-communities-during-2020/>, page 20.

upselling of unaffordable products, unrealistic hardship and poor dispute resolution had emerged, and enquiries about telecommunication providers increased. We believe these systemic issues in the telecommunication sector have been exacerbated in 2020 by the increased reliance on telecommunications for work and school and keeping in touch with family necessary during the COVID-19 emergency.

However, many of these issues are longstanding. The Australian Communication Consumer Action Network's (ACCAN) research report, *Youth Check-In*, demonstrated some of the problems experienced by young Aboriginal and Torres Strait Islander people with phone and internet services. This research found that:²

- twice as many young people in Aboriginal and Torres Strait households had experienced unexpected mobile charges frequently or occasionally (41% compared to 19% of youth not in Aboriginal and Torres Strait households).
- One third (33%) of Aboriginal and Torres Strait Islander young people are on a high-cost plan, significantly more than non-Indigenous young people (22%), yet they are more likely to be on a lower personal income i.e. under \$99 (74% compared to 54% of non-Indigenous respondents); and
- Aboriginal and Torres Strait Islander young people (33%) are also over five times more likely than non-Indigenous young people to have been contacted by their telco about money they owe, also being close to three times as likely to have taken out a payday loan in order to pay their phone bill (32% compared to 11% of non-Indigenous youth).

Unfortunately, mis-selling practices impacting Aboriginal and Torres Strait Islander people are a systemic issue in the telco sector. We note that in May 2021, the Australian Competition and Consumer Commission (ACCC) case in the Federal Court against Telstra was finalised with Telstra fined \$50 million for its unconscionable sales practices to Aboriginal and Torres Strait Islander people.³ Unfortunately, we have seen similar misleading and unfair sales conduct in Victorian Aboriginal communities, from Telstra and other service providers.

Recommendations

Systemic issues in the telco sector related to mis-selling, inappropriate financial hardship support and disconnections/restrictions of service must be addressed in order to improve access and affordability of telecommunications services in regional, rural and remote Indigenous communities. We recommend requiring telecommunications providers to:

1. Take all reasonable steps to equip all telco staff with the skills and knowledge necessary to provide culturally appropriate services for Aboriginal and Torres Strait Islander customers. This should include managers, senior executives and board members.
2. Remove or reduce staff remuneration that incentivises sales over customer service (for example, sales commissions).

² Australian Communication Consumer Action Network (2020), *Youth Check-In: Exploring young people's experiences of phone and internet services*, <http://accan.org.au/our-work/research/1813-accan-youth-check-in-research-report>

³ ACCC, *Telstra to pay \$50m penalty for unconscionable sales to Indigenous consumers*, 13 May 2021, <https://www.accc.gov.au/media-release/telstra-to-pay-50m-penalty-for-unconscionable-sales-to-indigenous-consumers>

3. Check a customer's income and expenses to ensure they can afford a service or device before selling it to help avoid financial hardship.
4. Proactively offer affordable payment plans for customers having difficulty making payments (i.e. who are more than \$55 in arrears or mention an inability to pay).
5. Identify and investigate whether mis-selling has occurred when a customer has difficulty making payments, and in cases where mis-selling has occurred, take appropriate action (e.g. debt waivers).
6. Keep customers fully connected to their service if they are meeting their obligations under a financial hardship arrangement or to protect a customer's safety if they disclose they're at risk of harm (e.g. experiencing family violence).
7. Not sell debts to a debt collector if a customer is experiencing vulnerability, such as financial hardship, if they are experiencing family violence, or if the debt is in dispute.

These requirements must be directly enforceable by the Australian Communications and Media Authority (**ACMA**). The current industry-written Telecommunications Consumer Protections Code has failed to deliver access or affordability for Aboriginal and Torres Strait Islander peoples.

Further resources

We encourage the Secretariat to consider our previous submissions and reports on telecommunications issues in undertaking the current Review, including:

- *Joint submission: ACMA statement of expectations – consumer vulnerability*, September 2021⁴
- *Report: Consumer Issues In Victorian Aboriginal Communities During 2020*, June 2021⁵
- *Report: The Trouble With Telcos – Stories from 2020*, November 2020⁶
- *Joint submission: Telecommunications Consumer Safeguards Review - Choice and Fairness*, September 2020⁷

Please contact Samantha Rudolph, Aboriginal Policy Officer at Consumer Action, on 03 9670 5088 or at samantha@consumeraction.org.au if you would like to discuss this submission further.

Yours faithfully,

Katherine Temple | Director Policy & Campaigns
CONSUMER ACTION LAW CENTRE

George Selvanera | Acting CEO
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⁴ Available at: <https://consumeraction.org.au/acma-statement-of-expectations-consumer-vulnerability/>

⁵ Available at: <https://consumeraction.org.au/consumer-issues-in-victorian-aboriginal-communities-during-2020/>

⁶ Available at: <https://consumeraction.org.au/report-the-trouble-with-telcos-stories-from-2020/>

⁷ Available at: <https://consumeraction.org.au/telecommunications-consumer-safeguards-choice-and-fairness/>

APPENDIX A – ABOUT THE CONTRIBUTORS

Consumer Action Law Centre

Consumer Action is an independent, not-for profit consumer organisation with deep expertise in consumer and consumer credit laws, policy and direct knowledge of people's experience of modern markets. We work for a just marketplace, where people have power and business plays fair. We make life easier for people experiencing vulnerability and disadvantage in Australia, through financial counselling, legal advice, legal representation, policy work and campaigns. Based in Melbourne, our direct services assist Victorians and our advocacy supports a just marketplace for all Australians.

Victorian Aboriginal Legal Service

The Victorian Aboriginal Legal Service Co-Operative Limited (**VALS**) was established as an Aboriginal Community Controlled Co-operative Society in 1973. VALS is the only dedicated, multidisciplinary legal and support service for Aboriginal and Torres Strait Islander peoples in the State of Victoria. VALS plays a vital role in supporting Aboriginal people in custody and providing referrals, advice/information, duty work and case work assistance across criminal, family, civil and strategic litigation matters.

Our Integrated Practice Project

In March 2019, Consumer Action and VALS embarked on an Integrated Practice Project as one way of addressing some of the unmet consumer, credit and debt legal needs of Victorian Aboriginal communities. As part of the Project, VALS and Consumer Action work together to participate in regular community engagement sessions with Victorian Aboriginal communities. Community engagement sessions operate in partnership with local ACCOs and other key service providers. The sessions have served to connect these communities with legal advice services, financial counselling, policy work and legal education relating to consumer, credit and debt issues. They also provide a forum for the cross-promotion of services that can support the civil legal needs of Victorian Aboriginal communities.

