



Consumer Safeguards Review Part A – Redress and Complaints Handling

This submission is from the financial counselling sector.

August 2018

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About Financial Counselling

Financial counsellors assist people experiencing financial difficulty. Working in community organisations, they provide advice to help people deal with their immediate financial situation and minimise the risk of future financial problems. Their services are free, confidential and independent.

Financial counsellors need an in-depth knowledge of credit law, bankruptcy law, debt collection law and practices, industry hardship processes and government concession frameworks.

About this submission

This submission is from the peak body for financial counsellors in Australia, Financial Counselling Australia (FCA) and six of FCA's member groups: Financial Counselling Tasmania, Financial Counsellors ACT, Financial Counsellors Association of Queensland, South Australian Financial Counsellors Association, Financial Counsellors Association of NSW, Financial Counsellors Association of WA.

FCA's Victorian member, the Financial and Consumer Rights Council prepared a separate submission and we also endorse the points they made in this.

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About the Case Studies

The case studies in this submission came from financial counsellors around Australia. All names have been changed.

1 GENERAL COMMENTS

We welcome this review of consumer protection in telecommunications. Telecommunications are an essential service. Accordingly, it is imperative that there are sufficient safeguards to protect people using telecommunications services.

Financial counsellors assist people with issues regarding telecommunications which includes:

- providing advice on telecommunications issues
- representing people in financial hardship and negotiating repayment arrangements
- representing people in telecommunications disputes (including running disputes in the TIO)

Financial counsellors see people experiencing financial difficulty. The clients of financial counsellors come from a range of backgrounds and include people:

- on low incomes (Centrelink and casual work)
- with a disability
- a non-English speaking backgrounds
- Aboriginal and Torres Strait Islander

We strongly support the intention of Part A of this review which is to ensure people can access an effective complaint handling and redress scheme that provides transparency and accountability of telecommunications providers for their performance.

Financial counsellors report considerable problems with telecommunications providers (“Telcos”). The *Rank the Telco* report from the Victorian peak body for financial counsellors, the Financial and Consumer Rights Council,¹ found that the hardship practices of Telcos are strikingly poor across the whole industry. Telcos also performed worst on hardship compared to other industries such as banking, water, energy and even debt collection.

The findings in the ACCAN Report *Can You Hear Me: Ranking the customer service of Australia’s phone and internet companies*² are equally poor with difficulties seeking a resolution including requiring 2.6 contacts, 3 phone

¹ Financial and Consumer Rights Council, *Rank the Telco* 2017 available at http://www.fcrc.org.au/Content/PDF_downloads/5019%20Rank%20the%20Telco%20Report%202017_single_pages.pdf

² ACCAN, *Can You Hear Me: Ranking the customer service of Australia’s phone and internet companies* 2018 available at <http://accan.org.au/hot-issues/1525-can-you-hear-me-ranking-the-customer-service-of-australia-s-phone-and-internet-companies>

transfers and at least 13 days seeking a resolution (and over a month for Telstra customers).

We agree with the observations on page 4 of the Consumer Safeguards Review: Part A – Redress and Complaints Handling Consultation Paper (“Consultation Paper”). The above evidence shows that industry self-regulation is failing consumers. That failure is systemic and ongoing. It necessitates regulation to substantially replace self-regulation. We strongly support the recent commencement of the *Telecommunications (Consumer Complaints Handling) Industry Standard 2018*. This type of regulation is necessary to ensure the regulator can take action for breaches of the Standard. We contend that further industry standards should be enacted as soon as possible to introduce more regulation. This needs to be accompanied by rigorous monitoring, investigation and enforcement by the regulator.

There are also a range of consumer safeguards still missing from regulation that are needed to protect consumers from exploitation including:

- A suitability assessment for the product with very detailed enforceable guidance on how the assessment must be done
- Caps or “shaping” (reduced speeds) to manage excess data use
- Suitability guidance on pre-paid vs. post-paid plans
- Specific remedies for failure for breaches of the requirements which includes compensation and automatic release from the contract if it was unsuitable
- Caps on cancellation fees

Finally, the Telecommunications Consumer Protection Code (TCP Code) has not delivered the consumer outcomes expected. The TCP Code is not a term of the Telco contract (in contrast to the Code of Banking Practice, for example, where the Code is a term of the contract). There are a whole range of benchmarks that other industry codes do meet but the TCP Code does not meet. At a minimum, the TCP Code must be enforceable and ACMA should set best practice benchmarks that the TCP Code must meet.³

Recommendations:

1. Further regulation of Telcos is required to address the failures of self-regulation
2. Further Standards should be developed and enacted as soon as possible
3. Both regulators need to be actively monitoring and investigating Telcos with a commitment to rigorously enforcing the law

³ ASIC has set benchmarks for industry codes in the financial services industry. See Regulatory Guide 183 available at <http://download.asic.gov.au/media/1241015/rg183-published-1-march-2013.pdf>

4. The TCP Code must be enforceable and benchmarked against best practice industry code standards
5. Further regulation to specifically address data usage problems, unsuitable contracts and effective remedies for people

2 PROPOSAL 1: INDUSTRY COMPLAINTS HANDLING

We strongly support measures to improve complaint handling. Financial counsellors report that people get incredibly distressed when it is difficult to make a complaint and get a complaint resolved. Often there is a debt being demanded and the person can feel overwhelmed when the debt is being demanded and their dispute is being ignored or mishandled.

It also has to be noted that many complaints stem from systemic problems with the sale of Telco products and services. Those problems include:

- Misleading conduct about products and services
- Unsuitable plans and services
- Selling people multiple phones and tablets
- The product is not fit for purpose, for example, no reception
- Unaffordable plans and services

Telcos need to take responsibility and acknowledge these systemic problems. This means when considering complaints where there may be misconduct at the point of sale this also needs to be investigated and considered. It is not acceptable to turn all complaints into a negotiation for a repayment arrangement. For example, offering a repayment arrangement when the person has 4 new phones and a \$6000 debt and Newstart is their sole source of income at all relevant times. There needs to be an analysis of the inappropriate sale as well as a negotiated repayment arrangement/settlement.

Case study – bill shock

Toula is 45 and has been in Australia for a number of years. She was originally from Greece. She has three children. She has been hospitalised for mental illness twice in the last year. Toula has been a victim of long term domestic violence. Her husband is an ice user and has been incarcerated for the violence to her. Her income at all relevant times is Newstart with family tax benefit.

Toula now has a bill for \$6023. This was comprised of unsuitable contract changes including an upgrade from iPhone 6 to iPhone 8, a more expensive plan, excess data usage charges (that seem to have been caused by her children while she was in hospital) and fees.

The concern here is that the person was put in an expensive plan with high usage charges which she could never afford or manage while on Newstart. The ACCC Report *Don't take advantage of disadvantage*⁴ set out the issues to be

⁴ See https://www.accc.gov.au/system/files/217_%20BS%20Don%27t%20take%20advantage%20_FA_Web_Nov-2014.pdf

considered when transacting with vulnerable and/or disadvantaged people. This case study is an example of where bill shock could have been avoided with a more suitable plan.

It is also worth clarifying that financial hardship is and must be a part of the complaints handling process. A failure to provide a reasonable response to a request for financial hardship is a legitimate dispute and a dispute that can be considered by the TIO.

Issues for Comment

1. How can telecommunications service providers be encouraged to deal with and resolve their customer complaints without the need for recourse to external escalation?

Telcos have been well established in Australia for the last 20 years. Competition was introduced in 1991 when Optus obtained a licence. However, the complaints handling processes of Telcos have uniformly been poor and persistently poor. We suggest that a multi-faceted approach is required to improve internal dispute resolution (“IDR”) processes in Telcos. The suggested approaches are outlined below:

- a. Clear communication from ACMA about the importance and seriousness of the Complaints Handling Standard. There should also be clear communication about consequences. Telcos should be expected to comply full now.
- b. Enhanced and specific guidance on internal dispute resolution standards. This is in addition to the Standard. It is specific guidance on the standard so that Telcos are in the best position to improve their IDR. If there is no specific guidance there is a risk that the Telcos will constantly “read down” their obligations. A useful benchmark on what detailed IDR guidance should look like is ASIC Regulatory Guide 165⁵.
- c. There needs to be an audit process to assess compliance with the Complaint Handling Standard. This is to ensure there is a process of continuous improvement with compliance with the Standard. The requirement to do regular audits could be legislated or included in the Telecommunications Consumer Protection Code (“TCP Code”).
- d. The TIO needs to increase the fees when a complaint is received. This would be specifically designed as a financial incentive for the Telco to resolve disputes in IDR.

⁵ Available at <https://download.asic.gov.au/media/4772056/rg165-published-18-june-2018.pdf>

Recommendations:

1. Clear communication from ACMA about the consequences of not complying with the Complaints Handling Standard
2. Detailed guidance on IDR
3. An audit process on compliance with the Complaints Handling Standard
4. TIO increasing initial complaint fees to incentivise resolving matters in IDR

2. *What barriers currently exist that prevent providers from addressing consumer complaints at the first point of contact or through an escalated process?*

This issue would be better assessed by an audit of the complaint handling process. However, we consider there are a number of barriers that Telcos could address:

- Empowering staff to be able to resolve the dispute at the first instance. Those powers need to be extensive including flexible repayment arrangements, waivers, refunds, waiving fees, and compensation. It is currently incredibly difficult to find anyone who can make a decision;
- A really wide range of available options for financial hardship repayment arrangements;
- The dispute resolution contact details at strategic points on the Telco website that are easy to find;
- Have a clear and quick referral process to the specialist IDR team if the complaint is not immediately resolved (by direct transfer);
- Making the IDR specialist team transparent and accessible with their full contact details available on the TIO website. This should also include contact details for the specialist hardship service (if there is one).

Case study – Compassionate grounds release request

Jay has been on the disability support pension for 24 years. His cognition is limited and he has very poor financial literacy. He has Tourette's syndrome, autism and depression. He lives in public rental accommodation and has no significant assets.

Jay was struggling to pay a \$260 debt to a Telco. His financial counsellor requested that the Telco consider a release from the debt on compassionate grounds. The financial counsellor provided evidence of her client's financial circumstances including a Centrelink Income Statement and a statement of financial position that showed the difficulty Jay was having managing any repayments.

The Telco responded explaining that they will consider the release but Jay must have a default listing on his credit report. The financial counsellor confirmed with the client that he agreed to the default listing. The next email from the Telco declined the debt waiver request and offered a long-term repayment arrangement.

The Telco then (within days) sold the debt to a debt collector and told the financial counsellor to contact the debt collector. The financial counsellor applied for a debt waiver on the debt through the National Hardship Register (as the new debt collector is a member of that scheme) and the debt had been accepted into that process and will be waived.

The above case study exemplifies common problems in telco complaint handling:

- selling a debt to a debt collector when hardship negotiations are on foot;
- offering a long-term repayment arrangement with no consideration of affordability or sustainability of that arrangement;
- insisting on a default listing. If the account is in default it should be listed with appropriate notices. It should not be a negotiation point for a release. This is a particular problem in family violence matters where life rehabilitation is important and default listings can make getting housing difficult (for example);⁶
- the Telco has less compassion and workable solutions for people in serious financial hardship than a debt collector;
- no mention of any dispute resolution process and no mention of the TIO.

3. *How should responsibility for resolving consumer complaints involving multiple parties in the supply chain be achieved or enacted?*

We consider that a person making a complaint should not have to work out how a supply chain works and who should be liable. The Telco should be liable for anyone in the supply chain.

⁶ See also the approach to default listings in the *Financial Ombudsman Service Approach to Joint Facilities and Family Violence* at 2.7 available at <https://www.fos.org.au/custom/files/docs/fos-approachjoint-facilities-and-family-violence-final-4-may-17.pdf>

4. *Should there be additional rules in the ACMA's Complaint Handling Standard compelling providers to make every effort to resolve customer complaints before the consumer escalates the matter to an external dispute resolution body?*

Yes, there should be additional rules in the Complaint Handling Standard to compel Telcos to make effort to resolve the dispute. However, it should not follow that a person is trapped in an ineffective IDR process waiting for the Telco to resolve a dispute.

5. *What do consumers need to know about their provider's complaint handling policies and procedures?*

People need to know that:

- there is a complaint handling or dispute resolution process. The dispute resolution process needs to be available at Telco stores, available over the telephone and available on the Telco website
- the Telco takes compliance with their policies seriously and wants to know about any failures to comply
- the policies are easy to read and understand. They should be simple and in plain language.
- the Telco will ensure the complaint handling process is fair and reasonable
- the complaint can be made by a range of methods
- the person will receive a response in writing
- there are clear timeframes for responding to the dispute

6. *When and how should consumers be made aware of a provider's complaint handling policies and procedures?*

Early and often. That is, the person should be told about the dispute resolution process when they make a complaint. They should be told about time frames and that they can lodge a dispute in the TIO if the dispute is not resolved. If the dispute has continued in IDR for 30 days the person should again be told about the dispute resolution process and their rights to lodge in the TIO.

7. How will providers ensure their own staff are trained in the complaint handling policies and procedures and will be supported by appropriate complaint handling systems?

Telcos need to have their CEO committed to reforming their IDR processes. A commitment (top down) and appropriate resourcing are an essential starting point. Telco staff need to be empowered and trained that disputes and financial hardship are an opportunity to maintain customer relationships and generate loyalty.

3 PROPOSAL 2: EXTERNAL DISPUTE RESOLUTION

We strongly support maintaining and improving the TIO as the external dispute resolution scheme for Telco complaints. The Consultation Paper does not present any compelling evidence to support establishing a new complex disputes external dispute resolution body.

We are vehemently opposed to any external dispute resolution body that will only handle “complex” complaints. An external dispute resolution body of this nature would fail to meet the Benchmarks for Industry-based Customer Dispute Resolution.⁷ The relevant benchmarks it would breach are those relating to accessibility and effectiveness. By severely restricting the jurisdiction many people would be left with no remedy other than court. This would be a serious failure in access to justice for many people. The proposal also has serious procedural problems in defining complex disputes. There are systemic and serious “simple” disputes that we would argue are complex because they affect so many people.

We also have major concerns about locking people in an IDR process before they can go to the TIO. An external dispute resolution body would not meet accessibility benchmarks if the person has to prove they have gone through a complete and escalated IDR process. There are so many problems with the issues highlighted below are just the main concerns:

- there is a great deal of evidence that Telco IDR processes are poor. If there is no IDR the person would have great difficulty proving they had been through a process;
- the Telcos are not required to put anything in writing (which is a major deficiency) which again makes it difficult to prove the IDR process has been exhausted;
- many people will just give up in the face of a complex IDR process and be denied access to justice;
- this proposal is an incentive for Telcos to not put any effort into improved IDR processes as they can rely on the external dispute resolution body to be difficult to access;
- the level of complaints statistics would fall and frustration would escalate dramatically.

A much better solution is to improve the TIO to enable it to deliver better outcomes. We support the following improvements suggested in the Consultation Paper:

⁷ Australian Treasury *Benchmarks for Industry-based Customer Dispute Resolution* February 2015 available at https://static.treasury.gov.au/uploads/sites/1/2017/06/benchmarks_ind_cust_dispute_reso.pdf

- review and monitor IDR processes
- the TIO should deal with complaints across the end-to end supply chain
- resolve disputes in a way that ensures the relevant retail or whole sale provider is held accountable, including when third parties in the supply chain are involved
- the TIO should be independent with comprehensive reporting mechanisms. The TIO should report transparently on its own performance and effectiveness
- power to compel providers to take remedial actions or redress complaints including financial compensation and the ability to issue fines
- TIO should provide comprehensive information to the regulator when it identifies areas of non-compliance
- the TIO to work closely with the regulator to transfer information and refer issues
- the TIO funded by providers with the funding apportioned based on complaints

We would also add that it is important for the TIO to have powers to identify systemic issues and make a binding determination for compensation and other remedial action for all affected people. The new financial services EDR, the Australian Financial Complaints Authority has these powers and the TIO would be more effective if it had the same powers.

All of the above changes have been made or could be made to the TIO. It is noted that the TIO was independently reviewed in 2017. However, we support ongoing improvements and it would be useful to discuss the proposals in detail to see what further improvements can be made.

Issues for comment

1. *Should the current TIO arrangements be transformed to an independent EDR body for handling complex complaints?*

Definitely not. The TIO should not be transformed into a body that only handles complex disputes. This would be a substantial reduction in access to justice for people. It would cause widespread dissatisfaction with Telcos given their IDR is poor. The proposal would have the perverse outcome of making Telco IDR processes even less responsive. This proposal is strongly opposed.

- 2. In addition to resolving complex complaints, should the independent EDR body be proactively engaged in driving industry improvements, identifying systemic complaints and analyzing root causes or recurring issues?*

The TIO should definitely expand its approach to systemic issues. It should significantly expand its systemic issues capabilities and amend its powers to enable it to make determinations that provide a remedy for all affected people.

The TIO should also drive industry improvements by publishing detailed guidance on a range of topics. This would set standards for Telcos to follow. It is also critical that the TIO issue detailed guidance covering family violence.

- 3. Should the charging structure for complaints lodged with the EDR body be structured to encourage providers to exhaust all practical steps to directly resolve the complaint with the consumer before referring to the EDR body? How can this be achieved?*

The charging structure of the TIO should include a strong incentive to Telcos to have effective IDR. IDR should never be structured as a “prison” for people where they find it difficult to get to EDR.

- 4. What process should be followed before a consumer lodges a complaint with the EDR body?*

The person should lodge a complaint with the Telco. There should be no requirement to find a specialist section. The Telco would then have 30 days to resolve the dispute. If the dispute is not resolved then the person can lodge in the TIO. People would need to be advised of these rights and timeframes.

- 5. What process should the EDR body follow in the event it receives a complaint from a consumer where the consumer has not followed the provider’s complaint handling procedures?*

We strongly object to any assumption or requirement that the person must know about the Telco’s complaint handling procedures and comply with them. There is a widespread failure by Telcos to inform people about their complaint handling procedures. The emphasis needs to be on Telcos having effective complaint procedures and that they comply with those procedures.

All complaints to the TIO are as a matter of standard procedure referred back to the Telco for resolution. In this sense the Telco gets two attempts at IDR. This is supported as the person can often get an escalated IDR contact when the dispute is lodged in the TIO. There should be no action taken in relation to

complaints where the person has arguably not made a complaint in the first place. There are two important reasons for this. First, Telcos usually do get contact about the complaint and then argue they didn't know it was a complaint. This is a failure of IDR and not the person's fault. Second, people find it very difficult to complain to a Telco. Again, this is a failure of IDR and not the person's fault.

In effect, for accessibility reasons, the person should get the benefit of any doubt. It should not be a test for the person to make a complaint. It should not be possible to fail.

6. *What process should the EDR body follow in the event it receives a complaint from a consumer where the provider has not followed its own complaint handling procedures?*

The TIO should notify ACMA.

Recommendations:

1. We are strongly opposed to the abolition of the TIO
2. We do not support narrowing the jurisdiction of any external dispute resolution body
3. We do support consulting on further improvements to the TIO

4 PROPOSAL 3: DATA COLLECTION, ANALYSIS AND REPORTING

We strongly support the proposals for improving data collection, analysis and reporting.

Issues for comment

1. *How often should the EDR body provide complaints data to the ACMA for analysis and reporting?*

The TIO should provide data monthly.

2. *Are there any unforeseen issues or unintended consequences of the proposal for a centralised repository and reporting of industry complaint information?*

We cannot see any unintended consequences.

3. *Do the proposals in the paper address the major issues of concern with the current arrangements regarding complaints and complaints handling. If not, what additional measures could be included?*

The proposals in the paper do not address the major issues with complaints and complaint handling. As stated above we do not support a new dispute resolution body. We do support continuing discussions to improve the complaint handling of the TIO. We also support enhanced data collection, analysis and reporting.

4. *What considerations should be taken into account in implementing the proposals outlined in this paper, including practical timeframes for implementation?*

As outlined above, the proposal for a new external dispute resolution body is is vehemently opposed and further consultation is required.

5. *Are there any other issues that should be brought to the Government's attention?*

No.

5 ABORIGINAL AND TORRES STRAIT ISLANDER PEOPLE

Financial counsellors and financial capability workers spend a lot of time assisting Aboriginal and Torres Strait Islander people with telecommunication issues. There are a number of factors that contribute to this including:

- Low numeracy and literacy levels – many Aboriginal and Torres Strait Islander people do not understand how Telco plans and contracts work
- (For some) living in remote communities which makes it difficult to access services, get phone reception, or access the internet
- Difficulty dealing with complaint handling with Telcos because of difficulty contacting the Telco, not being able to get reception to call, not understanding what the Telco is saying, and not being told about how the dispute resolution process works (or understanding it)

Case study – unsuitable Telco contract

Emi is a single mother and lives in a remote Aboriginal community 200 km north of Broome along a dirt road that is closed for long periods of the wet season. She lives on a Supporting Parent Pension with four dependent children (aged 6 to 17). Her income is less than \$20,000 per year.

She visited a Telstra store to get a new phone in April 2017. Instead of receiving a simple phone for pre-paid calls and data, she was signed up to a two-year contract for multiple devices totalling repayments of \$240/month. This amounts to finance of \$5760 over the life of the contract. The contract is not affordable.

Her latest bill totals \$7,874, and Telstra refuse to negotiate.

The financial counsellor has over 20 cases that are very similar, where the Telco took advantage of disadvantage to sell Aboriginal and Torres Strait Islander people phones and plans that were obviously unsuitable and unaffordable. This has left many with high bills they can never afford to repay. Financial counsellors in other parts of regional and remote Australia have reported the same problems.

Aboriginal and Torres Strait Islander people have told financial counsellors that they have problems with:

- Being taken advantage of by Telcos (and their agents and franchisees) to be sold plans and phone that are expensive and unaffordable
- Not understanding excess use of data and calls charges
- Being sold multiple phones and tablets that they don't use or don't understand how to use

- Being misled about costs
- Bill shock including receiving bills for thousands of dollars
- Selling post paid plans when pre-paid plans were working well
- Difficulties accessing and using the TIO

Case study – systemic Telco problems in the top end or “taking advantage of disadvantage”

A financial counselling agency has a number of Aboriginal and/or Torres Strait Islander people who have been mis-sold Telco products and services by Telstra and each client now has a completely unmanageable bill.

All happened at the Telstra Casuarina Store

- signed up for multiple phones debt now \$5260, client on Disability Support Pension (DSP)
- provided 4 phones in 4 weeks and debt now \$6800, client on DSP
- did not understand phone contract at all debt now \$6870, client on DSP
- very low literacy and numeracy and debt now \$5000, client on DSP
- low literacy and numeracy and did not understand contract or how to use a smart phone and debt now \$4884, client on DSP
- on Newstart with a medical condition signed up to a contract he did not understand and could not afford, debt now \$14,700
- low income working given a contract she did not understand, debt now \$9000
- client signed up to two separate contracts for 4 phones in the space of a month, debt now \$6900
- client went into the Telstra shop to get her own phone fixed, walked out 5 hours later with 3 smart phones including a bill for fixing her phone, debt now \$6644.33

Case study – systemic Telco problems in Broome or “take advantage of disadvantage” again

A financial counsellor has 23 cases of Aboriginal people in unaffordable and inappropriate contracts with Telstra. Three examples are:

- NS is living on Newstart caring for his elderly father. He cannot read or write. Visited Broome Telstra seeking repairs to a handset for which he had a pre-paid contract. He was signed up to a 2-year post-paid contract with multiple devices for \$200 a month. He had stated he was unemployed. The debt was now \$3921.
- EH is a single Aboriginal mother and lives in a remote Aboriginal community 200 km north of Broome along a dirt road that is closed for long periods of the Wet Season. She lives on a Supporting Parent Pension with four dependent children (aged 6 to 17). Her income is less than \$20,000 per year. She visited a Telstra store to get a new phone in April 2017. Instead of receiving a simple phone for pre-paid calls and data, she was signed up to a two-year contract for multiple devices totalling repayments

of \$240/month. This amounts to finance of \$5760 over the life of the contract. The contract is not affordable. Her latest bill totals \$7,874, and Telstra refuse to negotiate.

- KT is a single mother and lives in a remote Aboriginal community 200 km south of Broome on Centrelink payments. Her community is often cut off from access to Broome during the Wet Season. She is experiencing financial hardship and has requested assistance from Broome Circle. Ms KT's Mental Health support worker says: "She visited the Telstra Shop in Broome in July 2017 to buy a phone. A salesman sold her three mobile phones as part of a bundle which also included speakers and an iPad. She now has a \$8,737 bill and is confused about why. She still has one of the phones but the other two phones have been lost and the speakers were stolen. KT would be happy to return the phone that she has and is seeking assistance to have the debt wiped if possible. She does not have the means to pay this bill. She receives Centrelink payments as her main income means."

Telcos should be providing culturally appropriate services to Aboriginal and Torres Strait Islander people to meet their needs. This is particularly important as the proposals may cause particular problems for Aboriginal and Torres Strait Islander people. These can include:

- Language and literacy issues communicating with Telco
- Difficulty understanding complex fees and charges
- Difficulty accessing complaint handling processes due to being remote
- Understanding that Aboriginal and Torres Strait Islander people have cultural obligations (for example Sorry Business) that may mean delays in sending information or responding

Case study – Aboriginal man goes into pay a bill and ends up with a Samsung S7 and tablet

A 70-year-old Aboriginal man went into a Telstra shop in Adelaide to pay his bill. He came out with a Samsung S7 phone and a tablet. He had only been using his phone for calls. He did not download other content. He did not know how to use the smartphone.

The financial counsellor helped her client to cancel the contract with no cancellation fees. The existing debt was repaid using Telstra vouchers.

Case study – three mobile phones and no coverage

An Aboriginal man who lives on the lands in remote South Australia presented to a financial counsellor with 3 mobile phones that all could not be used as there was no mobile phone coverage at his home.

We contend that all Telcos and the TIO should provide culturally and appropriate services for complaints handling (and generally) which includes:

- Providing a culturally sensitive and dedicated phone service for Aboriginal and Torres Strait Islander people or their representative to deal with complaints and other issues
- Offering interpreters when possible
- Referring to financial counsellors and financial capability workers when assistance is required.
- Culturally sensitive and tailored disclosure materials

Case study – a meeting with Telstra in the mall left an Aboriginal man worse off with bundling

An Aboriginal man who already had a Telstra phone plan and another plan for a tablet. He was called over into a Telstra shop in the mall who said they could arrange a better deal. Even though the plan on the phone improved overall, he ended up paying more per month than before he entered the Telstra store.

Overall, it is particularly important that all Telcos and the TIO audit their processes to ensure that Aboriginal and Torres Strait Islander people have genuine access to complaint handling.

Recommendations:

1. Telcos and the TIO provide a dedicated culturally sensitive service for Aboriginal and Torres Strait Islander people with complaints or difficulty managing their Telco products
2. An enforceable standard to protect vulnerable people from exploitation
3. Referrals to financial counsellors and financial capability workers for Aboriginal and Torres Strait Islanders who need more assistance with Telco issues
4. The TCP Code should provide for specific measures to protect and assist Aboriginal and Torres Strait Islander people

6 APPENDIX – FURTHER CASE STUDIES

Case study – moved out of an affordable pre-paid contract into an unaffordable post-paid contract while unemployed

Mr NS is living on a Newstart allowance of \$281/week while caring for his elderly father. He also has a large Child Support debt accrued. Mr NS visited the Broome Telstra store in September 2017, seeking repairs to his prepaid handset. He was quite happy to continue with his prepaid phone. Instead, the Telstra salesman signed him up to a two-year post-paid contract with multiple devices totalling \$200/month.

Mr NS cannot read or write. Mr NS quickly accrued a Telstra debt of over \$1300 and received a letter threatening him with Telstra early termination fees of a further \$2750 if he didn't pay up immediately. Telstra stated that Mr NS faced the potential of bills exceeding \$3,921. Broome CIRCLE staff made a formal complaint to Telstra and the local store manager eventually cancelled the contract and refunded amounts already paid by Mr NS.

Then in mid-January 2018 (after Telstra had cancelled the contract) Mr NS received a new Telstra bill for \$1500. Then one week later this same account had tripled to over \$4,500. Mr NS had completed the contract application form correctly and stated that he was unemployed.

Case study – DV survivor cannot get a landline because of a Telstra debt she could never afford

Ms LB is a single mother and victim of domestic violence whose income is Centrelink payments. She was referred to us for help by her case worker, Kathleen, from DCP. Ms LB was signed up to a \$300 per month Telstra plan.

Ms LB went to the local Telstra store (9/11) asking for one phone and they told her she could get a free tablet (which was enticing as she has small kids), but she would need to get the plan and a second phone.

Ms LB's case worker later accompanied Ms LB back to the store and tried, unsuccessfully, to end the contract. During these negotiations the case worker, Kathleen, was told that Telstra used an eight-year-old credit check to approve the contract. Ms LB speaks Creole at home and is not proficient in English.

On 5/2/18 Kathleen made a priority application with Telstra (because of Domestic Violence) to get a land line connected at home for Ms LB.

She rang Telstra and was told that this would not be possible until Ms LB cleared the debt from the mobile phone contract, which now stands at \$2,443.

Case study – an unaffordable Telco debt and difficult complaints process

BACKGROUND

Client has an intellectual disability and is on DSP. The client has minimal to basic understanding of the concept of the acceptance of agreements and her rights as a Customer. The Client is also the Carer of her family who also have intellectual impairments.

The client was referred to Moneycare Townsville by a Community Centre on 10th May 2018, who had previously advocated with the Telco some time previously. The summarized result of this was 3rd party charges were credited and the mobiles were blocked from usage of 3rd party apps, as well as additional unknown credits and or reimbursements.

PRESENTED

The client presented at the initial assessment on 21/5/2108 with an April bill in her name, in excess of \$2000 and monthly charges approx. \$600+. The Client advised the Telco was demanding a minimum of \$300 per fortnight or they would disconnect the mobile phones. Client was anxious as she needed to keep in contact with her daughter attending school, as well as her partner when he went out independently in case they got into trouble.

The Client advised that she had attempted to make contact over the phone as well as directly at the store, but became frustrated as she felt there was no assistance in respect to the rising debt. There was no referral known to the Telco Financial Assist Team and or recommendations on how to reduce the costs to a more reasonable expense.

CHRONOLOGY OF EVENTS

21st May 2018 – Recommendation of a review of known statements on hand being April 2017, November 2017, December 2017, January 2018 and April 2018 to be completed by Moneycare and to advocate on the client's behalf. In depth communication forwarded to the Telco, advising the Telco of the vulnerability of the client.

Date of action	Issue identified	Telco's response	Content of outcome
April 2017 to May 2018	Review of statements identifies a number of new agreements and increased transactions throughout, where by the Telco knew the client was struggling with payments and continuously in arrears. There seemed	30/05/2018 Advised verbally; Confirmation of receipt of correspondence and a review will commence. Advised by Telco (in summary) that the Client should be under the "Public Trustee" if she was identified	Moneycare's verbal response back was that the client is able to live independently as a vulnerable person who has empowerment. This does not give the Telco the right to

	to be no review by the Telco as to the client's attempt to address needs and reverse charges where possible. Client's vulnerability was not considered at the time of any of the new agreements were implemented	as vulnerable and then agreements would be blocked and matters dealt with the Trustee.	abuse this client's vulnerability knowingly – or words to that effect.
April 17	An upgrade of internet services was recommended by the Telco including NBN, Internet, email and Foxtel. Client advised the upgrade did not improve services and the services were changed from Fast to Standard.	20/6/2018 Telco advised client can cancel service without a Cancellation Fee.	July 18 – Telco charged \$67.43 cancellation fee, awaiting reversal by Telco.
April 17	Client received a Home Security Camera on the recommendation of the Telco, with an increase of approx. \$25 per month. Item was never installed.	20/6/2018 Telco advised they are willing to remove cancellation fees if the unit is returned undamaged at the client's cost.	Jun 18 Telco charged cancellation fee of \$189.20. Awaiting client to return for reversal.
April 17	Client obtained a new phone and additional plan for her daughter, \$70 per month, plus \$5 per month for a cover and \$15 per month Stay Connect, not full understanding what the Stay Connect program was about.	20/06/2018 Telco advised this unit/agreement is valid and no adjustment to the agreements will be made.	

April 17	<p>Client contacted the Telco to advise that the charge for her current notepad did not show on her statement. Client was advised to pick up another notepad for the charge to continue. Client was then charged for 2 notepads. Increasing her costs by \$35 per month. Client attempted to return the additional notepad Nov 17 at the Telco store but was advised to return would cost her approx. \$800. No referral was made to resolve the client's wish to reduce her costs.</p>	20/06/2018 Telco advised they are willing to cancel the service with no cancellation fee, if the client is able to return the unit undamaged at their cost.	Jun 18 Client charge cancellation fee \$ 227.177 and Payment Contract Balance \$198.172 totalling \$413.682. Awaiting client to return the unit.
April 17 and or prior	<p>Client was recommended an additional technical service at \$15 per month to assist her with her technical queries on her phone and notepads at \$15 per month</p>	20/06/2018 Telco advised willing to cancel subscription and to reimburse all service charges to date	Telco cancelled service and no further charges. Awaiting a credit from the Telco estimated value in excess of approx. \$250.00
Sept 17	<p>Client moved residence. Client advised that the house was not set up for the current service due to a technical issue and the Telco set her up with a different service at an additional \$21 per month, no reduction on the prior service</p>	20/06/2018 Telco advised willing to cancel without cancellation fee and reimburse all service charges.	Telco cancelled service so no ongoing charges, however still awaiting reversal of prior charges – estimated credit \$168.00

	<p>charges. Feb 18, the upgrade occurred to bring the client back to the original service. April 18 Client returned the temporary phone set up but still charged as they could not locate the return at the Telco shop</p>		
Nov 17	<p>Client was made aware that her contracts for her 2 x existing phones were due for renewal, client obtained 2 new phones at \$59 per month + \$5 p/mth phone cover, although still with large arrears. Client advised that phones were for free whilst she was on the plan. Client did not understand that she would be charged for the phones if she changed services. Client was charged approx. \$190 cancellation/payment contract balance on one of the prior phones. No communication was made to the client at the time of the new agreements.</p>	<p>20/06/2018 Telco advised this unit/agreement is valid and no adjustment to the agreements will be made</p>	
April 17 to May 2018	<p>Client had 3rd party charges blocked on her account previously by the</p>	<p>20/06/2018 Telco advised 3rd party charges were credited</p>	<p>Received credit of \$856.48 on May-Jun statement for returned phone.</p>

	Community Centre advocating. Noted charges were still being incurred but on the Notepads.		
Mar 18	Client's daughter's screen on the phone broke. The client was advised that under Stay Connect a replacement phone could be made, however the phone they had was now obsolete and they would have to take the upgraded version at a cost to them of \$190.00. Client was also charged \$513.00 for the original phone, although this was returned at the time the replacement was picked up.	20/06/2018 Telco advised unit was credited	Received credit of \$513.00 on May-Jun statement for returned phone.
July 18	Moneycare is closely monitoring this situation and anticipates further credits/reimbursements of approx. \$1100.00 to occur in the next few weeks pending return of items. This will reduce the clients overall bill by approx. \$2500 as well as reduce the client's ongoing monthly expense by approx. \$220.00		

Case study – a bundle where a person did not get what they wanted and cannot cancel due to large costs

BACKGROUND

Client has an intellectual disability that is on DSP and exacerbated by substance abuse.

PRESENTED

The client presented at the initial assessment on 31/7/2018 that he had a contract for a new phone/bundle of approx. \$220 per month. This agreement executed Dec 17 was for a new phone and 25 GB of data.

Client is struggling to maintain same and advised that he went to the Telco to look at setting up the internet at his place of residence. The client thought that the agreement included both. It was not until later that he realized it did not include home internet.

When the client tried to cancel as it did not cover what he wanted he was advised the overall cost to cancel would be approx. \$1600 for the phone plus cancellation fees which the client did not have and therefore felt he had little choice but to stay with the current arrangement.

Case study – home invasion survivor cannot get help with Telco issues

Single male, 35 years of age and on DSP. He has long term mental and physical health issues and no employment history. Living in shared accommodation. He was the victim of a home invasion where his phone and Laptop were stolen. He cannot live at his previous home due to being unsafe.

Client called Telstra – they would not believe him that this had happened – made him produce evidence.

He is now unable to continue to pay the debt with Telstra and he presented to financial counselling for assistance.

The financial counsellor requested a release from the debt and provided evidence of financial situation (money plan deficit), evidence of police file and evidence of mental and physical health issues.

Telstra refused to waive the debt and it took three months to agree to payment plan of \$20 P/F – only possible due to other alterations made to money plan.

Case study – recovering from a stroke and bundled into an unaffordable plan

CL had had a stroke and was well enough to go back to his 'sheltered workshop' employment. He went to the local Telstra store and they convinced him that now that he had had a stroke he would need a bundle of goods from them. CL just wanted a phone, but was led to believe that he had better get the whole lot.

He got home with the goods and realized that he couldn't pay for the stuff and really didn't want it. He went back to the shop and they said - 'too bad, you signed, it's too late now'. CL sought help from a financial counsellor. The financial counsellor contacted Telstra.

Eventually, with many calls and much FC pressure, they would only agree to a payment plan of around ¾ of the full payment and CL must send the bundle back. It is to be paid off over a longer period – which is some relief for CL.

CL sent the bundle back – got an old phone and signed up with Better Life Mobile. CL is pleased with his new service but CL is not in high paid employment so the new payments are still significant.

Case study – DV, financial hardship and poor response from Telstra to seeking assistance

Lindy* has 3 services- home phone/internet bundle including a mobile phone for herself with iPhone 6 still being paid off. Mobile phone for son, phone now fully paid for.

Lindy* has experienced long term DV and was the victim of a home invasion last October which exacerbated existing mental health conditions. She lost her job as a consequence and is in receipt of Newstart. Lindy could not afford her current plan.

Lindy attended local (either Lithgow or Bathurst) Telstra store to seek assistance (with Community Projects worker as support). Lindy advised Telstra that she had not had internet service at her new premises since May as it had not been disconnected from her previous address.

Lindy was told that there was no assistance available for hardship, no DV support program, and employee refused to refer client to a hardship team via phone, stating that "there is nothing we can do, you'll just have to make arrangements to pay your bill."

Account was sent to a collection agency. Lindy and her carer came to see a financial counsellor seeking help for this and other financial matters. The financial counsellor contacted Telstra, who returned the account from the collection agency and agreed to cancel the home phone/internet service. Disconnection fee waived. The financial counsellor tried to get a refund of the months that client did not receive benefit for service but to date Telstra has refused, on grounds that service is valid. FC is continuing to fight this and will go to TIO if necessary. Telstra agreed to change son's mobile service to prepaid. Telstra also agreed to accepting payment of \$60 per month for client's mobile, however are still

demanding full payment of outstanding balance via payment plan. No offer of partial waivers or any other assistance has been made.

Case study – Financial hardship and poor response from Telstra to seeking assistance

Mrs A closed her business when she became carer for her partner. When the telephone contract ended she tried to change from a business account to personal account but was persuaded to keep the phone as a business account. After the death of her husband and increasing health problems of her own Mrs A struggled to secure hardship provisions as there is limited scope for business accounts. Eventually Mrs A closed the telephone account and got another phone with another service.

She then tried to make payments on her debt. The financial counsellor asked Telstra for information to organise Centrepay. After two attempts each requiring a trip to another town to access Centrelink and due to Mrs A's health concerns took some weeks, we rang Telstra again to verify the account details and were given the same account numbers. The paperwork was resubmitted and rejected. Another phone call and we were told that we were missing a number. Mrs A submitted the paperwork again and it was rejected. Another telephone call and after much patience telling Mrs A's story to several people we were told that they can't do Centrepay payments on business accounts. By this stage Mrs A's health had deteriorated to the point that she needed more medication and so the budget was unable to sustain even small payments.

The financial counsellor asked for a waiver on the account, and started a new adventure on finding information and the right people to talk to. There was no assistance and a complaint lodged in the TIO.

Case study – an inappropriate lease for a phone

Garry* is 57 years old, a single parent of 2 teenage children. He is in private rental. His income is Newstart and family tax benefit. He is a single parent.

He approached Telstra to obtain mobile phones for his family. He was signed up to a lease and bundle arrangements with a minimum monthly spend of \$800. He never understood he was on a lease. This included a smart watch and a Netgear nighthawk which he had no idea how to use. The payout figure for the contract was over \$10,000.

The financial counsellor is trying to assist Garry but he is frightened of being without a phone. He does have some savings from the sale of a property following his relationship breakdown. It is likely those savings will be reduced significantly trying to resolve this matter.

Case study – pensioner with \$3,333 debt

Rob* is 68 years old and an aged pensioner. Before being on the aged pension he was on the Disability Support Pension. He lives in public housing. He has ongoing mental health problems. He has been hospitalised for mental health problems several times over the last few months. He is illiterate.

He got two mobile phones from Telstra. He now has a bill of \$3333. He has no idea how it got that high. He does not believe he got the bills. He thinks they were being emailed but he was not sure how to open his email. He could never afford the phone plan.

Case study – NBN problems and hours of being on-hold

An elderly couple (in their 80s) switched to Southern Phone as it seemed cheaper. No major problems, however, when the NBN became available they thought it was compulsory to switch. They were told it was straight forward and they would send out a new modem. The male is vision impaired and uses a magnifying glass for reading. The female is mobility impaired and not computer literate.

They could not install the modem and needed help from a family member. They then could not use their landline because of the change to NBN and spent many hours calling to try and resolve this. When they finally got technical support, they were expected to do this on a computer and follow complex instructions. This proved impossible. It was then rescheduled to have a family member present to assist. They used to have two phones for landline, one for vision impaired use and another cordless phone. They could now only have one phone. They needed a message service and could also not get this working. After many hours on hold and not able to fix it, they again arranged a time for Southern Phone to ring back when a family member was present. Southern Phone did not call. The computer is in an unheated room so the many hours on hold or getting help left the elderly couple in a cold room for hours.

The matter has now been lodged in the TIO. The clients are very upset about how complex the process is and not tailored in any way to deal with disability. The many hours on hold were also upsetting and frustrating.