



ACCAN Review  
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## **Consumer representation: Review of section 593 of the *Telecommunications Act 1997***

### **Introduction**

Internet Australia (previously known as the Internet Society of Australia) is the not-for-profit peak body representing everyone who uses the Internet. It is a broad, member-based organisation, not and industry lobby group. Its mission statement is *Helping Shape Our Internet Future*. It is the Australian chapter of the global Internet Society, often referred to as ISOC, which is the largest network of people and organisations focused on ensuring that the Internet continues to evolve as a platform for innovation, collaboration, economic development and social progress. ISOC has 90,000 individual members, 145 organisational members and 100+ volunteer chapters in more than 90 countries.

### **Disclaimer**

Internet Australia has, in the past, been the beneficiary of small amounts of Section 593 grants for sitting fees to attend meetings of consumer consultative forums which pre-date the formation of ACCAN. Internet Australia has also received funding from ACCAN for one research project but has not received any funding from ACCAN in recent years. Internet Australia is not an organisational member of ACCAN. There is some cross-membership of individuals between ACCAN and Internet Australia.

### **Issues**

This Review raises four main issues:

- Is there a continuing need for direct funding under s. 593, and if so, should it be used for other than the current purposes of consumer representation and research?
- If the current funding is to continue, should that funding go to a telecommunications specific organisation or organisations, or to a general consumer body or bodies?
- Given that ACCAN has been the sole recipient of funding under s. 593, has it done the following:
  - Effectively engage with a broad range of stakeholders
  - Struck an appropriate balance between general and specific consumer needs
- Given the Issues Paper's recognition of the need for consumer related research, currently funded under ACCAN's Independent Grants Program (IGP):



- Should Government undertake its own consumer research, either wholly or partly replacing the IGP funding
- Has the research undertaken under the IGP proven useful to consumers; and/or influenced policy.

### **Direct Funding?**

In 1996, the Government included Section 593 in the new legislation in recognition of the need for informed consumer participation in the regulatory process. While by today's standards, the communications technology landscape was comparatively simple in 1996, nevertheless there was then a clear need for well-informed consumers and independent advocacy of consumer interests. Given the vast increase in the use of communications technologies since then, and the way in which these technologies have become pervasive in all aspects of our lives today, the need for independent consumer advocacy and advice is as compelling as it ever was.

Some would argue that an increasingly competitive market should encourage service providers to give consumers better and well informed choice of service and product offerings, and so reduce the need for independent consumer advocacy. In practice, the nature of these constantly changing technologies creates great confusion for consumers and often leads to poor consumer outcomes. Experience over recent years indicates that ACCAN, as an independent consumer advocate, has played a critical role in encouraging service providers to improve service offerings and to provide meaningful information to enable consumers to manage their costs of communications services. As the Issues Paper demonstrates<sup>1</sup>, the market now is a far more complex and confusing one than was the case 20 years ago.

The experience of the past two decades of reform and growth in the Australian telecommunications market demonstrates that the need for direct funding of an independent consumer advocacy body through Section 593 funding is on-going.

This model has also recently been recognised as a useful precedent in other sectors. The establishment of the industry funded organisation Energy Consumers Australia demonstrates a recognition by Commonwealth, State and Territory Governments, via the COAG Energy Council, of the need for a well-funded organisation to act as a consumer advocate in the electricity and gas sectors. These governments have recognised the value of an independent advocacy body which is adequately resourced to advocate for and undertake research on behalf of residential and small business energy consumers, particularly in a competitive market, for what are essential services.

The on-going need for such an advocacy body is at least as strong in telecommunications as it is in energy. As with energy, telecommunications has become essential service for consumers, but with a market that has a far more complex, and rapidly evolving, range of products and services on offer from far more industry participants. This is particularly so in respect of the emerging need for fast, affordable broadband services.

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<sup>1</sup> Issues Paper, p. 5.



The final question in this issue is whether s. 593 funding should be used for purposes other than consumer representation and research. Internet Australia believes that, in the broadest sense of the terms, representation and research are fundamental tasks for a consumer organisation to both inform consumers about the market(s) and provide evidence for advocacy on consumers' behalf.

### **Funding General or Telecommunications Specific Consumer Organisations?**

Prior to 1996, we understand that some limited consumer advocacy was undertaken by general consumer organisations. The major constraints on this activity were a lack of resources to devote to this purpose, combined limited technical expertise which would tend to limit the effectiveness of this advocacy. The establishment of Section 593 direct funding was a response to the perceived inadequacy of these arrangements. The case for having dedicated funding to telecommunications specific organisations appears to us to be even more compelling (based on the myriad of service offerings and changing technologies) than ever.

In addition, as we understand it, ACCAN is funded by a levy on telecommunications industry participants to resource a telecommunications-specific consumer advocacy body. It is unclear to us why the telecommunications industry could reasonably be expected to change this arrangement in favour of funding a general organisation which would need to spend time and resources to come up to speed in a complex and evolving consumer landscape. If the Government were to decide to direct funds away from a specific groups towards a more general purpose consumer advocacy bod, it may be more appropriate to abandon the industry levy in favour of direct Budget funding. This is because, if the funding mechanism were to be under s. 593(2), such funding must be spent on assistance to a person or organisation 'relating to telecommunications'.

A related issue is whether s. 593 funding should be used to fund several different telecommunications-related organisations/funding bodies. Past experience indicates that this is likely to produce consistently sub-optimal outcomes due to inadequacy of resourcing and overlap of effort. When s. 593 funding was first allocated, it was split among several organisations including CTN, SETEL, TEDICORE (which between them gained the majority of funding) and a range of other small groups, particularly in the disability sector. Prior to the establishment of ACCAN, the division of funding was determined following an annual competitive process to divide up the available funding. The process was administratively burdensome and inefficient and the small consumer advocacy organisations that were supported were generally incapable of mounting strong, evidence-based cases to support their consumer advocacy.

ACCAN was established to directly address those problems. One consumer focussed telecommunications organisation is far less costly to administer, and because it is well funded, can have a far greater and longer lasting impact on the development of policy and on maintaining close links with the variety of telecommunications stakeholders (Government, regulators, industry, small business and consumer organisations). The establishment of ACCAN also provided the opportunity for some direct savings to industry. For example, Telstra was able to close down two long-standing consumer consultative forums and to rely instead on ACCAN.



### **ACCAN's Performance?**

Earlier reviews by the Department of Communications found that ACCAN had generally performed its roles well but indicated the need for improvements in some spheres – particularly in representing the interests of small business. ACCAN has responded strongly and effectively to these issues and has established itself as the key voice for consumer advocacy in telecommunications. It is widely recognised as playing a valuable role in advocacy, while its research reports have frequently provided useful insights into emerging consumer policy issues. Its role and value are also recognised and generally supported by industry – although ACCAN would not be doing its job if there was never any tension between it and the industry service providers. Among other things, ACCAN played a very strong leading role in the development of the TCP Code.

ACCAN regularly reports against a wide range of metrics including submissions made, policies developed, meetings with all stakeholders (Government, regulators, industry, consumer groups and civil society), and media exposure. All of those metrics together well establish the very important role that ACCAN has played in representing both the needs and interests of consumers generally, and of consumers with special needs.

The Government has placed a strong emphasis on the importance of de-regulation and the need to eliminate unnecessary regulations in many spheres including telecommunications. ACCAN was quick to embrace this concept and has been consistently helpful to the Government in identifying areas for potential de-regulation; canvassing views and developing consensus on reform; and coordinating development of preferred options for advancing the Government's efforts.

ACCAN has often also demonstrated an increasing capability and credibility in drawing in and marshalling specific expertise on complex technical issues through its liaison and association with other organisations including Internet Australia. This has enabled it to lead some comprehensive analysis from a consumer perspective. Internet Australia believes that ACCAN could do more of this deliberate collaboration with technical bodies to better inform its work. With this in mind, Internet Australia believes that one of the metrics against which ACCAN should report is the extent of its on-going consultation with other relevant organisations such as Internet Australia. We consider that this would help to ensure that ACCAN's investment in projects reflects the diverse interests of consumers as seen by stakeholders in the technical community.

### **Funding Research?**

The Issues Paper asks whether research funded under ACCAN's Independent Grants Program (IGP) has influenced Government policy or industry behaviour. Clearly it has in our opinion. In addition, ACCAN's research has been important in the development of policy positions, in advocacy work with Government and industry, in providing consumer feedback in regulatory forums and in providing consumers and small businesses with a range of information and advice on industry issues.



Some have suggested in the past that ACCAN's research funding could be more strategically directed, or that it could be better spent if it were given to a specialist communications research body in a university or government agency. Internet Australia is sceptical of the merit of these alternatives. With respect to funding a government research agency, Internet Australia considers that it would be quite inappropriate for funds from an industry levy to be used to support research by a government agency. Such an agency should be budget funded. It is also not obvious as to which university should be singled out as a major recipient of this research funding. The current research program enables a range of universities and others to be involved in projects appropriate to their areas of expertise.

The quantity of research funding is not large (around \$250,000 per annum). ACCAN's administration of it works well and appears to be cost effective; and many of the projects funded by it have been useful in informing consumer advocacy and ultimately in effecting change in the market. Having said all that, Internet Australia is conscious that the ACCAN research projects sometimes seem to have an academic bias and we consider that it could be beneficial for the selection criteria to have some skewing towards favouring at least some research projects which are of more immediate practical use to consumer advocacy and related groups. As noted above, we suggest that ACCAN be required to formally consult with appropriate other industry bodies.

### **Conclusion**

Internet Australia believes that there is a clear case for continuing to provide direct funding under Section 593 for a dedicated telecommunications consumer advocacy organisation and that that body should continue to be ACCAN. While we favour some minor changes to selection criteria for its research grants, we also consider that this role should be retained by ACCAN.

Yours sincerely

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