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Communications Accessibility: 2016 and Beyond

ACCAN thanks the Department of Communications and the Arts for the opportunity to respond to the 'Communications Accessibility: 2016 and Beyond' consultation. ACCAN is concerned however, that this important public consultation was not made available in Auslan until several weeks after the initial publication of the discussion paper. Deaf consumers, whose first language is Auslan, are one of the key constituencies using the National Relay Service. Additionally, ACCAN is concerned that there is limited opportunity for Deaf consumers to respond to the consultation in their first language.

Introduction

ACCAN is pleased to see that the National Relay Service (NRS) is providing greater essential access to communications for Australians who are Deaf, hearing-impaired or speech-impaired, in the short time since a number of new relay services have been introduced.

The Commonwealth's 2011 'Access to Telecommunications by People with Disability, Older Australians and People Experiencing Illness' review clearly outlined the limitations of the previous NRS model in our rapidly developing communications environment.¹As was seen from the broad range of submissions to the 2011 review, it was clear that the NRS needed to provide greater access and new services in order to leverage increased mainstream technologies to provide functionally equivalent communications to Australians who are Deaf, hearing-impaired or speech-impaired.

Since the beginning of the current NRS contract, changes to both technology and how technology is used by people with disability has allowed the NRS to introduce a number of communications

¹http://www.google.com.au/url?sa=t&rct=j&q=&esrc=s&source=web&cd=7&ved=0ahUKEwiuggCOv7rMAhWCe6YKHcoWDpgQFgg9MAY&url=http%3A%2F%2Fict-industry-reports.com%2Fwp-content%2Fuploads%2Fsites%2F4%2F2013%2F09%2F2012-Review-of-Telco-Access-for-People-with-Disabilities-DBCDE-Jul-2012.pdf&usq=AFQjCNG04D3o_dJYD2pYiMZxT9m3bL5ehw&sig2=ruLAztl1oNMPwuLnouFRNQ

solutions which offer greater equivalence to voice telephony. The introduction of SMS relay, video relay, captioned relay and the NRS app have all increased the value of the NRS for both NRS users and the whole community. These new services have helped to break down some of the barriers to effective communication for people who rely on the NRS.

These improvements to the NRS do not only benefit people with disability, they also benefit the wider community. For example, improving the speed of NRS calls benefits NRS 'primary users'. It also enhances the efficiencies of business and government, as recipients and initiators of NRS calls. The implementation of these new services, such as video relay and captioned relay are already realising service efficiencies. Given that the time spent on a video relay call is considerably less than the time to make the same call using TTY relay, there is a commensurate reduction in the number of billed minutes for the call.

The addition of these new services has made Australia's relay service a world leader in bridging the communications divide for many people who are unable to use mainstream voice communication services.

It is unfortunate that the success of these improved services is now being touted as 'unsustainable' and that the Department's Consultation Paper is canvassing potential usage limitations to these essential alternative communication services.

The NRS was established as a measure to achieve equivalence to voice telephony for people who are Deaf or hearing-impaired, and later, people who are speech-impaired. Since the introduction of the NRS, advances in communication technologies have provided a number of mainstream products and services with advanced accessibility suitable for many people with disability. For example, Microsoft's Skype and Apple's 'Face Time' provide video chat capability for people who use Auslan. Additionally, there are a growing number of apps providing increased communication options for people with disability. For example, Beam Messenger provides real time interactive text communication suitable for people who are Deaf, hearing-impaired or speech-impaired.² Early adoption of new technologies often occurs within disability communities. For example, SMS was quickly adopted by the Deaf and hearing-impaired community as a preferred communication channel. Feedback from ACCAN's consultation with people with disability indicates that mainstream connectivity is always their preferred choice for communication, while making calls using the NRS is generally limited to those times when direct communication is not possible or not appropriate. It is important to note that just because a technology may provide an alternative communication channel to the NRS there are a number of reasons why someone may choose to use the NRS in lieu of these alternatives. For example:

- Both parties must be able, prepared and comfortable to communicate via the direct mainstream service option. This is often dictated by the preferences of the hearing called party
- The widespread uptake of direct mainstream text service options for communication between people who are Deaf, hearing-impaired or speech-impaired and hearing people is likely to be restricted by variances in the English literacy skills of Deaf people

² <https://www.gari.info/findapps-detail.cfm?appid=236>

- Use of text may be limited by the digital literacy capabilities and access to technology of both parties; and
- The preparedness of hearing people who are used to communicating via a real-time, interactive service such as voice telephony to be comfortable with the more limited communication offered by text service options.

Options Commentary

Australia has made significant progress addressing many of the barriers people with disability encounter when participating in economic, social and community life. As noted in the consultation paper, Australia has adopted a number of both domestic and international instruments to improve participation for people with disability.

The overarching principle behind the NRS has traditionally been one of inclusion and participation. However, the consultation paper suggests a move away from that traditional view of the NRS as being essential to non-discriminatory and functionally equivalent Standard Telephone Service (STS) access and connectivity. The consultation paper suggests that the continuation of the NRS in its current form may actually be contingent on an assessment of sustainability rather than guaranteed on the basis of non-discrimination and legislated telecommunications requirements. ACCAN asserts that this shift undermines broader public policies of greater access and inclusion for Australians with disability, such as universal access to the standard telephone service, and the *Disability Discrimination Act*. Overall, ACCAN considers it inappropriate, inequitable and counter to the spirit and intent of the legislation to limit or reduce the equivalence of STS access and connectivity by restricting the availability of, access to or usage of the NRS.

Recommendations

Recommendation 1: The ongoing funding of the NRS needs to be on a cost recovery basis to ensure the ongoing provision of essential communication services for Australians who are Deaf, hearing impaired or speech impaired.

Recommendation 2: All relay services need to be available on a 24/7 basis in the same way as communication services are available for the broader community.

Recommendation 3: the Commonwealth, as a matter of priority, needs to develop a national Next Generation 000 service which allows direct SMS communication with the 000 operator.

Recommendation 4: Research be undertaken to determine both NRS user willingness to register to use NRS services as well as to determine what cost savings could be achieved through implementation of a registration scheme.

Recommendation 5: Government agencies such as the Department of Communications and the Arts and the Digital Transformation Office implement a whole-of-government program to increase the adoption of alternative real-time communication channels for Government services.

Recommendation 6: The Commonwealth develops a Disability Equipment Program independent of industry to provide communication equipment for consumers with disability.

Recommendation 7: Providers offer mobile plans which enable consumers to choose only the services they need.

Recommendation 8: The Commonwealth and industry investigate opportunities to leverage the NDIS Information and Capacity Building program to develop an agency to provide one-stop information and resources on mainstream technologies with accessibility suitable for people with disability.

Recommendation 9: In view of the poor knowledge of Telco front of house staff about accessibility features of mainstream products, the industry Code C625 not be downgraded to guideline status.

Recommendation 10: Network providers reinstate regular consultation with peak disability organisations to provide an avenue for up to date feedback on accessibility of mainstream products and services.

Response to proposed Options

Option 1: Increase the funding allocation available for the National Relay Service to sustain its delivery over the life of the current contracts

Issues for consideration

- *Should a specific funding allocation from the TIL available for the delivery of the NRS be removed – i.e. funding from the TIL to be used on a fully cost recovery basis, reflecting the actual level of use of the NRS in each financial year?*
- *Should a specific funding allocation from the TIL available for the delivery of the NRS be increased by a set amount? If so, what amount?*
- *Should changes to the current \$20 million allocation (excluding GST) available for the delivery provision of the NRS from the TIL be allocated for specific purposes? I.e. for delivery of specific service options.*

The Universal Service regime legislates that access to a STS should be reasonably available to all people in Australia on an equitable basis, wherever they reside or carry on business. This includes voice equivalent services for those people with a disability unable to use voice telecommunications. Therefore there is a priority to ensure that NRS services continue to provide equivalent communications access over the term of the current contract and into the future.

Historically, the NRS has been funded from the Telecommunications Industry Levy (TIL) which has been collected from eligible carriers, based on the previous years' operating cost rather than a pre-determined fixed amount. It is unclear to ACCAN why the current contract has an annual cap of \$20 million (excluding GST) given the Commonwealth's desire to improve services as well as implement new services in this current contract. Setting another 'capped' funding allocation for the remainder of this contract is likely to be no more than a band aid remedy.

It is highly likely that the uptake of NRS services will increase over time as more people find it difficult to or are unable to use traditional communication services. For example, with our aging population the incidence of age-related hearing loss is projected to rise. Currently, there is no

mainstream equivalent providing the benefits of captioned telephony for people who are hearing-impaired. Until such a mainstream technology exists it is likely that the use of captioned relay will continue to increase.

Implementing an arrangement to fund the remainder of the current contract through a cost recovery basis will ensure NRS services which are critical to users continue. This will provide these consumers with certainty that the services they rely on will be available into the future.

ACCAN notes that the USO more broadly is funded by both Commonwealth contributions and the Telecommunications Industry Levy, collected annually from eligible carriers. The recently announced Productivity Commission review of the USO is likely to make recommendations on the future of the USO and its funding arrangements. As such, ACCAN considers that the Government determine whether the increased funding needed to cover the current contract be from an increase in the TIL, Commonwealth contributions or a mix of both.

ACCAN, through consultation with industry, is aware that the industry's response to the Options paper flags some alternative funding mechanisms. Our discussions with the NRS provider indicate that there continue to be high numbers of call refusals across many of the relay services. ACCAN is concerned that any change to NRS funding does not create a disincentive for government agencies or businesses to accept NRS calls.

Recommendation 1: The ongoing funding of the NRS needs to be on a cost recovery basis to ensure the ongoing provision of essential communication services for Australians who are Deaf, hearing impaired or speech impaired.

Option 2: Introduce measures to manage demand for NRS services

Issues for consideration

- *Should capping arrangements be put in place for one or more service access options delivered through the NRS?*
- *Which service access options could be capped (while maintaining access to calls to emergency services on a 24/7/365 basis) for users of the NRS?*
- *Should limited hours of operation be put in place for any other service access options delivered through the NRS, apart from the current arrangements in place for video relay?*
- *Which service access options could have limited hours of operation (while maintaining access to calls to emergency services on a 24/7/365 basis) for users of the NRS?*
- *Should caps be considered on a per-user basis as part of 'fair use' controls?*

Mainstream communication services are available 24/7 across Australia. NRS users should have the same access to communications services as the rest of the community. Whilst the current NRS contracts are not publicly available, historically in delivering the NRS, the provider has been required to:

- Operate the NRS 24 hours a day, seven days a week, every day of the year.
- Ensure privacy of the content of all calls and the identity of callers, except for calls through the text emergency call service, as required by law.

- Place no limits on the length or number of calls made through the NRS.³

Some NRS users are already disadvantaged by limitations on the service hours. For example, video relay is only available between the hours of 7am to 6pm (AEST) Monday to Friday except for national public holidays.

The Commonwealth's commitment to the *Disability Discrimination Act*⁴ (DDA), National Disability Strategy⁵ (NDS) and the United Nations Convention on the Rights of Persons with Disabilities⁶ (CRPD) oblige the Commonwealth to ensure that people with disability have equity of access to communication services including anytime, anywhere access to emergency services. As such, ACCAN opposes any reduction in service availability for any of the current NRS services, considering such reduction in services as counter to the intent of the NRS legislation. Furthermore, ACCAN is of the view that the current limited hours of operation for video relay are discriminatory and that the video relay service should be made available on a 24/7 basis. Video relay is the only way that Deaf people can have real-time access to telecommunications in the same way that members of the mainstream community make and receive phone calls. Text alternatives such as emails and direct SMS are not real time, and additionally they must occur in English, which is the second language of most Deaf people and may actually be inaccessible to a significant proportion of the Deaf community.

Currently, Auslan users do not have anytime access to emergency services. This imposes significant risks on Deaf consumers and the community at large that could be avoided with the main stream technology options now available and in use in many other countries. The introduction of the SMS relay service in this current contract was a stop-gap measure that side stepped the real issue of providing anytime, anywhere access to emergency services for all Australians regardless of their ability. ACCAN considers this highly qualified solution as discriminatory and a significant safety concern not just for Deaf, hearing impaired and speech impaired but for all Australians. ACCAN recommends that the Commonwealth, as a matter of priority, develop a national Next Generation 000 service which allows direct SMS communication with the 000 operator. ACCAN also recommends further research to assess implications of excluding service-to-service calls via the NRS, for example excluding SMS to SMS or video to video calls, similar to the current exclusion of TTY to TTY calls via the NRS.

Recommendation 2: All relay services need to be available on a 24/7 basis in the same way as communication services are available for the broader community.

Recommendation 3: the Commonwealth, as a matter of priority, needs to develop a national Next Generation 000 service which allows direct SMS communication with the 000 operator.

³ See DBCDE Feasibility into an Independent Disability Program report.

⁴ <https://www.legislation.gov.au/Details/C2013C00022>

⁵ <https://www.dss.gov.au/our-responsibilities/disability-and-carers/program-services/government-international/national-disability-strategy>

⁶ <https://www.humanrights.gov.au/our-work/disability-rights/international/united-nations-convention-rights-persons-disabilities>

Option 3: Introduce more specific requirements to support access to the National Relay Service, including greater enforcement of fair use policies

Issues for consideration

- *Should account or compulsory registration requirements be expanded to cover access to all service options available through the NRS?*
- *Should the establishment of any account or registration process require appropriate independent confirmation of the disability which requires the account holder to use the service?*
- *Should the establishment of any account or registration process require account holders to appropriately self-declare the disability which requires them to use the service?*
- *Should appropriate fair use policies be introduced for account holders with the NRS?*
- *Should the current follow-on call options available for some types of inbound connections to the NRS be removed?*

ACCAN notes that while general consumers are not required to register to use communications services, relay users may be willing to voluntarily register their need to utilise NRS services if this will help to sustain ongoing reliability of the service.

In some instances registration may benefit users. For example, a registration system could allow NRS users to make calls to family, friends and colleagues while travelling overseas. Currently, it is not possible to make an inbound NRS call from overseas.

Any consideration of a registration scheme needs to recognise the potential cost to NRS users in gaining professional certification for use of NRS services. Obtaining an audiologist or other professional certification of Deafness, hearing-impairment or speech-impairment is a cost that is not imposed on the broader community to access communication services.

Generally ACCAN does not support the introduction of a 'fair use' policy which would limit legitimate use of a service. Typically, 'fair use' policies regarding communications services come into effect only in cases where the use of the service falls outside of general usage, that is, for nefarious activities which can damage the network or are well beyond what could be considered reasonable use.

Applying 'fair use' policies aimed at limiting general usage of the NRS would be discriminatory, undermining the principle and intent of the NRS service as a functionally equivalent communication service for people with disability.

It is unclear to ACCAN how limiting contact with the NRS to single calls i.e. eliminating the ability to make multiple calls from one connection to the service, would provide cost savings contributing to greater sustainability of the NRS.

Recommendation 4: Research be undertaken to determine both NRS user willingness to register to use the NRS services as well as to determine what cost savings could be achieved through implementation of a registration scheme.

Option 4: Refocus the existing National Relay Service outreach programme

Issue for consideration

- *How could the NRS outreach programme be refocussed to assist in broadening awareness of service options and aiding the sustainability of the NRS?*

ACCAN’s consultation with the NRS Outreach provider indicates that there continues to be a need for ongoing TTY training in addition to training for other relay services. Focusing the Outreach service away from NRS service training and awareness will undermine the efficacy of the service to fulfil its primary and contracted responsibilities of assisting people with disability to access the NRS services.

Option 5: Review the range of services options and technologies available to sustain delivery of the NRS in the future

Issues for consideration

- *What sort of transition process would be appropriate in phasing out legacy proprietary technologies such as the TTY access to the NRS?*
- *Are there options such as limiting inbound connections generated by specific technologies that could be introduced?*
- *What are the likely circumstances in which people may choose use the NRS over other communication options?*
- *How can reliance on the NRS as a communication option be reduced?*
- *Which are the service access options to favour when providing primary access to the NRS through non-proprietary mainstream technology options?*

ACCAN’s consultation with our membership indicates that Deaf, hearing-impaired and/or speech-impaired consumers are already using the NRS as the service of last resort, preferring appropriate mainstream communications services in the first instance

When government and businesses provide real-time communication channels such as web chat or real-time social media interactive channels, NRS users, as with general consumers, will likely use these services in lieu of the NRS. For example, Samsung provides a direct Auslan service for its Deaf customers, eliminating the need for Deaf customers to use the NRS video relay when contacting the company.⁷

It is clear from the year-on-year reports that TTY usage is on decline. However, the percentage of NRS call minutes attributed to TTY calls indicates that TTY usage continues to provide significant

⁷ <http://www.samsung.com/au/support/auslan-service/auslanservice.html>

access for NRS users. The most recent NRS quarterly report shows that approximately 15 per cent of call minutes were TTY calls.⁸

Additionally, whilst transitioning TTY users to more mainstream communication technology may be desirable, it is unlikely to lead to a reduction or slowed growth in total NRS call minutes as other NRS service types will be substituted and simply experience commensurate growth.

A further consideration is that transitioning TTY users to other technologies such as internet chat may create affordability issues. Consumers who rely solely on TTY communication will likely have a low cost landline connection. Transitioning to a broadband service will increase the cost of connectivity for these consumers.

Recommendation 5: Government agencies such as the Department of Communications and the Arts and the Digital Transformation Office implement a whole-of-government program to increase the adoption of alternative real-time communication channels for Government services.

Option 6: Remove specific telecommunication regulations in place for disability equipment programs

Issues for consideration

- *Should the Telecommunications (Equipment for the Disabled) Regulations 1998 be repealed?*
- *If the regulations were repealed, would an additional safety net, beyond compliance with requirements of the Disability Discrimination Act, need to be implemented?*

ACCAN has advocated for a change in the way the current Disability Equipment Program operates for many years. In our submissions to both the Commonwealth's 2009 study into the feasibility of an independent disability equipment program (TEDICORE submission) and the 2011 Review of Access to Telecommunications by People with Disability, Older Australians and People Experiencing Illness,⁹ ACCAN called for an updated DEP independent from the current Telstra and Optus programs. Our position remains that these industry programs do not provide the appropriate equipment or consumer choice in today's communication environment. While it is clear that the ways in which people access communications services has dramatically changed since the introduction of the 1998 *Telecommunications (Equipment for the Disabled) Regulations*¹⁰, equipment available through these disability equipment programs has remained limited to a TTY or a large-button, volume controlled handset.

The National Disability Insurance Scheme (NDIS) may provide communications equipment for eligible participants. However, the NDIS is anticipated to serve approximately 460,000 people with profound and severe disability. It will not provide any funding for people who acquire a disability

⁸ <https://www.communications.gov.au/.../services.../national-relay-service>

⁹ <https://accan.org.au/our-work/submissions/361-review-of-access-to-telecommunication-services-by-people-with-disability-older-australians-and-people-experiencing-illness>

¹⁰ <http://www.acma.gov.au/Citizen/Consumer-info/Rights-and-safeguards/Disability-and-priority-services/telecommunications-equipment-your-privacy-world-i-acma>

after age 65, nor will it provide funding for the other approximately 3.5 million Australians who identify as having a disability.¹¹ Equipment such as a captioned telephony handset or a Deafblind communicator need to be available at the comparable cost of a handset rental for those people who need them to use communication networks.

Therefore, ACCAN asserts any changes to the Disability Equipment Program legislation must ensure that the changes result in a fit-for-purpose equipment scheme providing consumers with disability the equipment which best enables them to participate equally in today's communications environment.

Recommendation 6: The Commonwealth develops a Disability Equipment Program independent of industry to provide communication equipment for consumers with disability.

Option 7: Encourage development of more affordable data-rich plans by retail service providers

Issues for consideration

- *Can more affordable data rich plans be developed by restricting voice call allowances in such plans?*
- *Can such plans be provided on both a pre-paid and post-paid basis?*
- *Should plans of this nature be generally available to all communities?*
- *What level of support is necessary to encourage the take up of devices and plans of this nature by people with disability?*
- *What are options to consider in how to provide necessary support?*

ACCAN has been encouraging mobile providers to develop plans which better meet the needs of consumers with disability. Currently, we are aware of only a couple of providers who allow consumers to package mobile plans to suit their specific needs.

Consumers with disability should not have to pay for services they cannot use and do not want. For example, mobile plans, both pre and post-paid, with increased data allowances in place of a voice component, would be beneficial for consumers with disability who do not use voice communication.

Recommendation 7: Providers offer mobile plans which enable consumers to choose only the services they need.

Option 8: Encourage initiatives to improve digital literacy and the availability of mainstream text- and video-based communication options

Issues for consideration

- *What skills and support are needed to encourage people to use mainstream technologies?*

¹¹ <http://www.abs.gov.au/ausstats/abs@.nsf/mf/4430.0>

- *Are there existing industry, government or community programmes which could be utilised?*
- *How can the broadening of the availability and promotion of mainstream text- and video based communication options by businesses and service providers be encouraged?*
- *How can Australians with disability be supported to increase their use of direct text and video communication options?*

Lack of access to relevant information about mainstream products and services which can provide greater accessibility and usability for people with disability is one of the foremost issues routinely raised with ACCAN by our membership and the disability community more broadly. We have developed our Disability Portal¹² on the ACCAN website to make more information readily available. There are also several good resources available through a range of disability organisations such as the Independent Living Centres (ILC)¹³ and the Conexu Foundation's Techfinder website¹⁴. ACCAN is aware that a number of Telco's have disability information available on their websites. However, there is an opportunity for industry and Government to do more in the way of providing useful information about the accessibility of mainstream products and services. The Mobile Manufacturers Forum continues to provide accessibility information about handsets and mobile apps via its Global Accessibility Reporting Initiative (GARI)¹⁵. However, ACCAN's Mystery Shopping research¹⁶ indicated that many Telco customer facing staff have no or very little knowledge about the accessibility features of the mainstream products and services they offer. Unfortunately, while this is clearly an area in need of greater promotion by industry, ACCAN is aware that Communications Alliance has proposed deregistration of C625 (2009) Accessibility Features for Telephone Equipment Industry Code¹⁷. ACCAN has opposed this move in light of the clear need for more awareness across industry of the need to make accessibility and usability information about mainstream products and services more widely available. The purpose of the Code is to ensure that the information provided by equipment suppliers clearly and comprehensively assists carriage service providers. It also helps consumers to identify equipment features that meet individual communication needs.

In addition both Optus and Telstra have disbanded their formal consumer consultative programs which had both included face-to-face consultation with representatives from peak disability organisations. This, in ACCAN's view, undermines the clear need to have more visible and accessible information available to consumers with disability about new and emerging mainstream technologies which can provide greater access and usability.

Furthermore, ACCAN believes there is an excellent opportunity for Government and industry to work together with the NDIS Information, Linkages and Capacity Building (ILC)¹⁸ program to create a one-stop information and resource agency capable of providing valuable information about

¹² <http://accan.org.au/disability>

¹³ http://ilcaustralia.org.au/search_category_paths/33

¹⁴ <http://techfinder.org.au/>

¹⁵ <https://www.gari.info/>

¹⁶ <http://accan.org.au/our-work/submissions/953-accan-s-disability-mystery-shopping-report>

¹⁷ <http://www.commsalliance.com.au/Documents/all/codes/c625>

¹⁸ <http://www.ndis.gov.au/community/ilc-home/ilc-policy-framework>

mainstream communication technologies and services to those people with disability who are not eligible for NDIS funding.

Recommendation 8: The Commonwealth and industry investigate opportunities to leverage the NDIS Information and Capacity Building program to develop an agency to provide one-stop information and resources on mainstream technologies with accessibility suitable for people with disability.

Recommendation 9: In view of the poor knowledge of Telco front of house staff about accessibility features of mainstream products, the industry Code C625 not be downgraded to guideline status.

Recommendation 10: Network providers reinstate regular consultation with peak disability organisations to provide an avenue for up to date feedback on accessibility of mainstream products and services.

Conclusion

Access to communications has become an essential part of all Australians day-to-day lives. Harnessing the new and accessible features and usability offered through new technology is providing us all with more opportunity to participate in economic, social and community life. It is important that these possibilities are available for people who are Deaf, hearing-impaired and speech-impaired. As more alternative communication solutions become available it will be critical that people with disability continue to be early-adopters, however until there is an appropriate alternative communication solution many of these people will continue to rely on the NRS. It is important that we do not prematurely transition people to technologies which do not suit their particular abilities or needs.

ACCAN looks forward to continued cooperation with Government and industry to progress adoption of new and emerging technologies which benefit all consumers including people with disability.