

20th December 2017

ACCC

Via: Commsmarketstudy@acc.gov.au

The ACCC Communications Sector Market Study draft report is an important examination of the communications market. Many of the recommendations and forthcoming work identified are vital to support a competitive market and a positive consumer experience.

ACCAN welcomes all the proposed actions; in particular we strongly support the following actions which will likely have a direct consumer benefit:

1. **Proposed Action 6: Wholesale Service Standards Inquiry.** ACCAN does not believe the current service level arrangements are supporting consumers connected over the National Broadband Network (NBN). We look forward to engaging with the inquiry next year and hope that it will be a significant step to delivering transparent standards over all nbn technologies for all consumers.
2. **Proposed Action 14: Review of Comparator Websites.** With access to a greater number of retail providers being one of the main benefits and changes for consumers, it is important that consumers are aware of the providers that are available and can easily compare their offerings. Comparator websites should aid in this, however, their usefulness may be limited if they only compare providers that pay to be part of this service or do not show all providers and plans. ACCAN hopes the ACCC review will provide confidence that these services are a benefit for consumers.
3. **Proposed Action 16: Review of Email Retention Options.** Emails are often a cause for a consumer not to switch providers. Those that choose to switch providers often spend large amounts to keep their email service with the previous service provider. ACCAN welcomes the ACCCs examination of the associated charges and potential mechanisms for individuals to port an email service to other providers, as currently can happen with phone numbers.
4. **Proposed Action 19: To improve information provision to consumers, particularly complaints data.** ACCAN agrees that there is a need for improved consumer information, particularly for complaints metrics. Current published complaints data consists of 6 monthly reports of new TIO complaints. In addition, Communications Alliance publishes quarterly *Complaints In Context*,¹ showing TIO new complaints per 10,000 services in operation for 5 RSPs. Both have limitations because TIO data only reflects escalated complaints, not all complaints; ACCAN research in 2015 found that only 9% of people who were dissatisfied with how their RSP had dealt with their complaint raised it with the TIO.² In addition, Communications Alliance's *Complaints in Context* is voluntary so does not represent a comprehensive picture of the market. Published metrics about complaints received by RSPs could drive better complaints handling performance across the industry. On currently

¹ Communications Alliance, *Complaints in Context*, July – September 2017.

http://www.commsalliance.com.au/_data/assets/pdf_file/0004/58963/CiC-Jul-Sep-2017-report-v2.pdf

² ACCAN, *Complaint fatigue persists among telecommunication consumers*, June 2015.

<https://accan.org.au/our-work/1072-complaint-fatigue-release>

Australian Communications Consumer Action Network (ACCAN)

Australia's peak body representing communications consumers

PO Box 639, Broadway NSW 2007

Tel: (02) 9288 4000 | Fax: (02) 9288 4019 | Contact us through the [National Relay Service](#)

www.accan.org.au | info@accan.org.au | twitter: [@ACCAN_AU](#) | www.facebook.com/accanau

available information, consumers are unable to adequately evaluate complaints handling performance by provider. Given the recent 41% increase in TIO complaints,³ publication of metrics such as those proposed in the ACMA's *Reconnecting the Customer* report in 2011 need to be reconsidered.⁴ In particular the total number of complaints and customer numbers by provider; the number of complaints resolved at first contact; the number of complaints lodged with the TIO by provider; and the average length of time to resolve complaints.⁵

5. **Proposed Action 20: Broadband Performance Monitoring and Reporting Program, Broadband Speed Claims guidance and enforcement action.** The first results from the broadband performance monitoring and review program next year should provide consumers with a clearer idea of how Retail Providers design their services to offer different levels of speeds during peak hours and help stimulate greater competition for quality services.

ACCAN would like to make a number of comments in relation to the following topics.

1 Information and product gaps

ACCAN supports a number of comments made in the report in relation to information and product gaps. ACCAN believes that there are information gaps that needs to be addressed. As many of these will not be addressed by commercial comparison websites or by one body alone, ACCAN believes that more is needed to support consumers with information and products that suit their needs better.

1.1 Voice only

ACCAN agrees with ACCC's report that for the 18% of voice only households that there are limited options.⁶ Previous desk research by ACCAN found it difficult to identify voice only nbn products and providers. No comparison website provides this information, although the usefulness of this may be limited if these consumers do not access or use internet services. ACCAN believes the lack of information on choice for these consumers is detrimental to competition and limiting consumer choice. For many of these consumers, choice of providers may be new and without information about choices they will be unable to switch. Products better designed to suit these consumer needs would also result from better visibility and competition between these plans and providers.

³ Telecommunications Industry Ombudsman, 2016-2017 Annual Report, <https://annualreport.tio.com.au/#complaints/1>

⁴ ACMA, 2011, Reconnecting the Customer. <https://www.acma.gov.au/Industry/Telco/Reconnecting-the-customer/Public-inquiry/final-report-reconnecting-the-customer-acma>

⁵ ACMA, 2011, Reconnecting the Customer, p. 115

⁶ Pg. 42, ACCC Draft Report

1.2 Consumers with disability

Often providers do not make available information about main stream products and services which meet the needs of consumers with disability.⁷ Industry needs to step up and be proactive about providing and proactively offering information that is specific to people with disability, on their website, at point of sale and other customer-facing situations. This includes making consumer information accessible in a range of formats as well as providing information about products and services best suited to different disabilities.

1.3 Non-NBN areas

ACCAN believes another area where consumers lack information is in premises serviced by non-nbn networks. Often mainstream providers and plans are not available to these consumers. It can be difficult to identify what providers are available. They are also unlikely to have the assistance of comparison websites to compare services available to them. These consumers would benefit from resources and a centralized website to check what providers and plans are available to them.

1.4 Information during the Migration

For consumers, migrating services to NBN can be complicated. Any loss of services or functionality can cause significant risk to life, cost and inconvenience. From our experience and hearing from members, many of the issues currently experienced could be prevented by better information and procedures. ACCAN has called for a number of changes to improve the consumer experience during the migration period.⁸ Including, ensuring that consumers have access to a working service, providing accurate, clear and consistent information to consumers, providing assistance to consumers when needed and ensuring there are appropriate avenues for consumers to seek assistance, answers and raise complaints. ACCAN encourages the ACCC to continue to play an important role in ensuring a smooth transition for consumers.

2 Services outside the fixed line footprint

For about one million households, or about 8% of the nbn footprint, voice will continue to be delivered by Telstra's copper network as set out under the Universal Service Obligation Contracts. These premises will have the option to switch to nbn Fixed Wireless or Satellite services. However, for these households there is a lot of confusion and concern about the future of services that they are currently using.

2.1 Fixed internet services

While there is no requirement for Telstra to stop selling ADSL services in these areas, like there is in the nbn fixed line footprint, Telstra and other provider's intentions for these services is unclear. Consumers report selling practices that lead them to believe that they have to switch to fixed wireless and satellite service. A number of other consumers requesting new connections (who have moved into premises that previously had copper phone and ADSL connections) report that they are

⁷ ACCAN, 2017, Disability Mystery Shopping Project. <https://accan.org.au/hot-issues/1426-disability-mystery-shopping-blog-2017>

⁸ ACCAN, Migration Statement, <https://accan.org.au/our-work/policy/1458-migration-statement>

unable to connect to ADSL or fixed phone services in these areas now. Instead Telstra, and other providers, are presenting Fixed Wireless, Satellite or mobile as their only option. For many consumers access to ADSL internet and landline voice are essential, and the availability and future plans for these services should be clearly stated.

In the report there are references to ceasing regulation of the copper network and decommissioning it. ACCAN asks that this wording is amended to explicitly state that this only applies in the fixed line footprint.⁹ In addition ACCAN request confirmation from the ACCC about its approach to the network outside the fixed line nbn footprint. There will be an ongoing need for the copper network and associated regulation of access in these areas.

In addition, where wireless or satellite consumers are located in exchange areas that are supplying nbn fixed line services (through the FTTN/FTTB technology) there are heightened concerns about the ability to supply voice and ADSL services in the future due to the interference between these services. There is a fear that the consumers mapped for satellite, will lose their current fixed phone and internet services and only have access to satellite.

ACCAN believes there is a role for the ACCC to monitor the development of services in these areas. The ACCC should monitor the number of fixed line services that continues to be made available in these regional, rural and remote areas and by providers to understand the changing level of competition in this market. It should also be clear to consumers what services are available and the different impacts that may result from switching to the nbn networks (such as during power outages). ACCC should warn providers not to pressure consumers to move to fixed wireless or satellite and that by providers only advising of fixed wireless and satellite plans could be considered as misleading consumers on what services are available. De-commissioning copper network outside the fixed footprint should be the subject of public and community consultation.

2.2 Voice Services

The review of the USO raises questions about the future of copper phone services. ACCAN is waiting for the Government and Department of Communications and the Arts response to the Productivity Commission report of the Universal Service Obligation.

A number of providers and the Productivity Commission report suggest that the Fixed Wireless network will be the network used to supply all internet and voice in the footprint. However, Fixed Wireless is not designed to support all households in these areas, with a much lower take up rate factored into projections. Therefore assumptions that this network can be used as the sole network, to provide voice and internet connections, is particularly concerning for the future sustainability of services and the ultimate experience these consumers will have.

While we would like to see improvements to the provision of voice services ACCAN believes that any future proposals should fully consider and cost the following items:

⁹ Pg. 46 and pg. 89

- The alternative technologies ability to deliver the level of quality needed to deliver an any to any quality voice service,
- The level of reliability of the service for consumers, in terms of expected minutes outage and repair timeframes, particularly in the most remote areas.
- The number of networks that consumers have access to, in case one network is out. It is important that consumers have a level of resilience. This is particularly true for remote areas that are a long distance from others and may have a higher occurrence of weather conditions.
- The cost that consumers have to bear in terms of the equipment and on-going charges for the use of the services. Any alternative services considered should factor in costs that are transferred to the consumer, particularly higher call, text and data costs.

2.3 Alternative Wireless

ACCAN believes the alternative wireless providers play an important role in supplying services. These providers are identified as potential service upgrade alternatives for consumers experiencing poor quality voice and internet in our Get Connected resource, which lists 30 such providers.¹⁰ In developing this resource we also found that there was “a lack of consumer awareness that there are other service provider options” than Telstra.¹¹ Part of the aim of this resource is to draw attention to the array of providers that may be an option.

Greater competition and awareness in regional, rural and remote areas is very important. For this reason ACCAN supports recommendation 27 to recognize and promote competition in the radio-communications regime. This will ensure that spectrum allocations ensure competitive services to consumers are a priority.

2.4 Open Access

ACCAN supports proposed action 22 which proposes to examine dense small cell infrastructure for open access regulation. As this is likely to be critical infrastructure it would be beneficial to examine the access regime now.

3 Pricing

3.1 Long term

ACCAN has concerns about the future affordability of services and the potential for digital exclusion to grow in the near future due to nbn pricing. The ACCC notes that there has been a long history of declining prices in the telecommunications market; this has in part been a reason for the increased take up of services. Looking forward this trend is unlikely to continue. It is not clear all three below statements can simultaneously be true:

¹⁰ ACCAN, Get Connected – 6 helpful steps if you can’t get a broadband service.

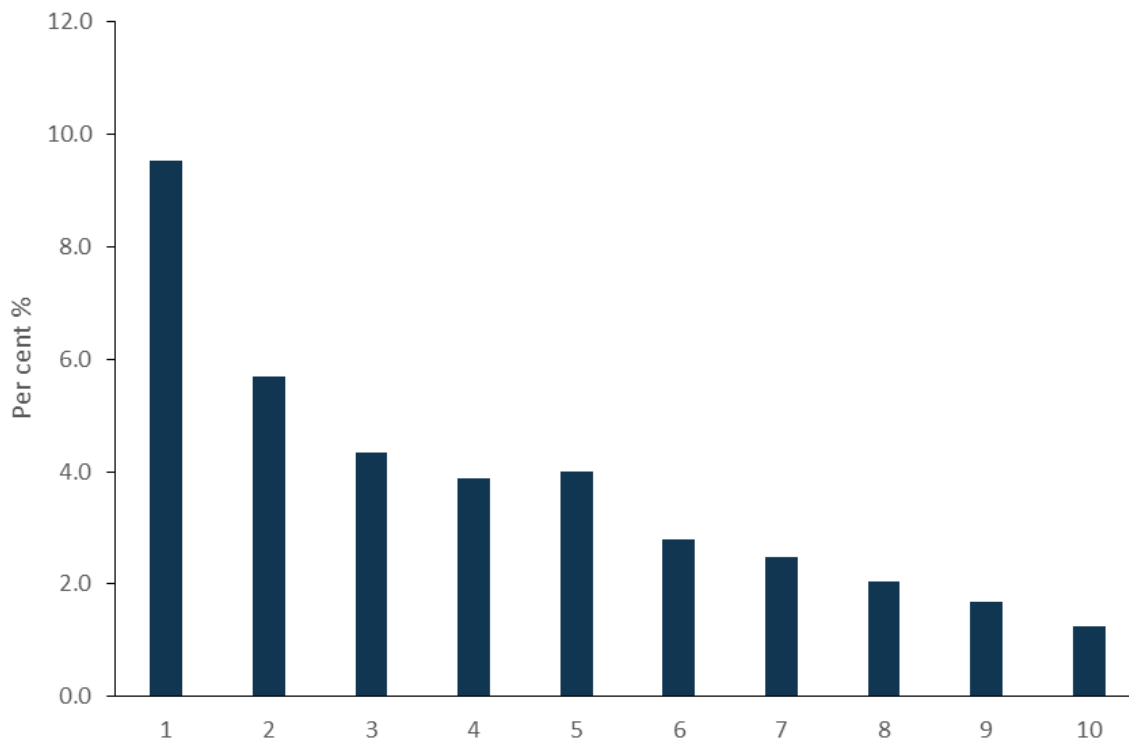
<https://accan.org.au/broadband/get-connected/adsl-solutions>

¹¹ Pg. 68

- Affordability of services can continue to improve, while
- Consumers continue to increase their data usage, and
- Nbn expects to increase its return from each connected premises.¹²

As the ACCC notes, “nbn pricing may not be sufficient to meet NBN Co.’s long term cost recovery requirements”.¹³ ACCAN is concerned that increased pricing or the introduction by nbn of fringe charges (such as installation charges or repair charges) to help recover cost is going to exclude lower income households from accessing fixed services.

For lower income premises the cost of having and staying connected is a significant impost on their expenditure. The bottom ten percent of households spends nearly 10% of their disposable income on communication charges (see graph below). Increases in costs are going to threaten these households ability to stay connected. Expectations that access to NBN alone, or that the current restrictions on nbn increasing its prices will meet the stated purpose of “connecting Australia and bridging the digital divide” or “ensuring that all Australians have access to very fast broadband”, will ultimately result in an increasing digital divide and millions of excluded households.¹⁴



¹² Pg. 122

¹³ Pg. 14

¹⁴ NBN, About NBN, <https://www.nbnco.com.au/corporate-information/about-nbn-co.html>, and Statement of Expectations <https://www.nbnco.com.au/content/dam/nbnco2/documents/soe-shareholder-minister-letter.pdf>

Figure: Average share of household disposable income spent on mobile and fixed-line telephone rent, calls and internet charges, by household disposable income decile, 2015¹⁵

While ACCAN also hopes the current pricing review will lead to revised pricing and better support high quality services, the discussion and price design needs to be broadened. Entry level pricing better needs to support low usage consumers. ACCAN also agrees that “there may not be sufficient options in the market to meet a range of consumer needs at affordable prices, such as price conscious consumers who use little data”. Our recent desktop market research to inform our consumer information has found that mobile products are 4-5 times cheaper for entry products than NBN. Fixed services, however, may be more suitable for some of these consumers due to equipment usage and coverage issues. The pricing here is distorting competition and leading to poor consumer experience. ACCAN believes further could be done at the wholesale pricing end to make affordable products available. There needs to be more options for low users of data and voice only households. Finally, measures need to be implemented to support low income households that require high amounts of data. The 2016 ABS *Household Use of Information Technology* survey found that for households with children and no internet connection, the main reason for not having internet access was cost (43% of respondents).¹⁶

As nbn pricing review develops we hope that it will address concerns about low income affordability, increase the number and affordability of low users and voice only plans and ensure higher quality services to better deliver peak hour speeds.

3.2 Funding non-commercial services

ACCAN believes that the current arrangement, of an internal cross subsidy within nbn, is not transparent or likely to ensure regional, rural and remote services into the future. Similar arguments have been made about the current funding of the Universal Service Obligation. It is important that regional, rural and remote services are supported by a funding mechanism that ensures the continuation and upgrading of services. ACCAN supported the Regional Broadband Scheme, as of all the options presented by the Government; it offered the greatest assurance of this.

ACCAN supports the ACCC’s proposed recommendation 29 to not extend the Regional Broadband Scheme to wireless services. While these services may be competition for nbn, extending the levy is likely to have a negative effect on competition and ultimately harm consumers through reduced service access and higher prices.

In addition, ACCAN supports the ACCC’s recommendation for direct budget funding arrangements for non-commercial services, or alternative arrangements to be put in place to address low income affordability barriers. ACCAN has raised concerns that funding arrangements for regional services

¹⁵ Department of Communications and the Arts, Bureau of Communications Research. *Trends and drivers in the affordability of communications services for Australian households*, 2017.

<https://www.communications.gov.au/departmental-news/new-research-shows-communications-services-are-more-affordable>

¹⁶ ABS, Households without internet access at home, *Household Use of Information Technology 2014-2015*. 8146. <http://www.abs.gov.au/ausstats/abs@.nsf/mf/8146.0>

will impact low income households.¹⁷ Funding non-commercial services costs on average \$7 per month from each fixed superfast broadband service and the Telstra and Optus agreements add an extra \$15 per month on average to nbn service.¹⁸ This is a significant impost which could discourage and prevent low income households for affording service. ACCAN agrees that direct budget funding would achieve the simultaneous outcomes of supporting services in regional areas, without increasing costs for low income households or distorting competition.

3.3 Pricing Review

ACCAN welcomes ACCC's proposed action 1 to review its competition and price monitoring activities. We hope this will allow for greater examination of changing prices in telecommunications market in general. It would also be helpful if this monitoring tracked different product bundles that suit particular consumer segments; such as voice only and low user markets. While ACCC has found that average prices have decreased¹⁹, current ACCAN and SACOSS research has found that this is not the case for the lowest income quintile that have seen a real increase in their telecommunications expenditure.²⁰

4 Special Access Undertaking

ACCAN has welcomed the deferral of the decision on the variation to the Special Access Undertaking (SAU). ACCAN has serious concerns about a number of the elements currently proposed which will:

- Put unfair charges on consumers, placing a heavy financial burden on vulnerable consumers for "add-ons" which are essential and required if a consumer wants a working service (such as charges if the consumers is unable to complete a self-installation).
- Allow for reduced speed levels over FTTN/B, without any transparency of which services are affected or any reduction in pricing during the affected period,
- Remove the requirement to publish the rollout information.

We urge the ACCC to also consider these issues when the SAU is considered again, and not just the pricing of the Multi Technology Mix.

5 Telecommunication Consumer Protection (TCP) Code

Proposed Recommendation 13. The TCP Code includes a number of obligations for RSPs in relation to their relationship with customers, including the provision of information.

The Critical Information Summary (CIS) required by the Code is a useful tool for consumers to compare post and prepaid offers in a standardised format, to assist in assessing market offers before

¹⁷ ACCAN, Telecommunications Reform Bill submission.

¹⁸ Bill Morrow at Senate hearing, 24/10/2017

¹⁹ Pg. 51

²⁰ Ogle, G. 2017, Telecommunications Expenditure in Australia, Australian Communications Consumer Action Network, Sydney. <https://accan.org.au/our-work/research/1460-telecommunications-expenditure-in-australia>

purchase.²¹ However, its utility is reduced if the wording and information is too complex and difficult for consumers to understand,²² and if it is not consistently offered to potential customers by sales staff.²³ The current obligation is for the CIS to be available with current market offers/promotions. The CIS has additional utility as a summary post sale as it allows consumers to confirm their entitlements under their agreement when needed, and compare with new offers as they become available. ACCAN's research confirmed that consumers are able to use information that they regard as relevant effectively, suggesting the CIS should be available to consumers for as long as their plan is in use, not only for current offers and promotions.²⁴ ACCAN considers the consumer benefits of the CIS would be enhanced if the current TCP Code review resulted in these improvements.

6 Mobile

The price premium charged by Telstra, identified on pg. 55, of up to 56% is significant for those that do not have a choice in provider due to limited coverage range. ACCAN supports the ACCC proposed work stream in relation to mobile coverage and its measures to address regional market issues and looks forward to engaging further on these actions.²⁵

Yours faithfully



Rachel Thomas
Senior Policy Adviser

²¹ Communications Alliance, Telecommunications Consumer Protection Code, Section 4.1
<http://www.commsalliance.com.au/Documents/all/codes/c628>

²² Harrison, Paul, Hill, Laura, and Gray, Charles, 2016, Confident, but Confounded: Consumer Comprehension of Telecommunications Agreements, Australian Communications Consumer Action Network, Sydney.
<https://accan.org.au/our-work/research/1307-confident-but-confounded>, p.36

²³ Anecdotal evidence suggests that the CIS may not be consistently offered by retail staff, but is available on request.

²⁴ Harrison, P (ibid), p.38

²⁵ ACCC. Measures to address regional market issues, 2017.
<https://www.accc.gov.au/system/files/Measures%20to%20address%20regional%20mobile%20issues.pdf>