



# Don't Just Sign on the Dotted Line

Evaluating Justice Connect's 'Bring Your Bills Day'





# Don't Just Sign on the Dotted Line

---

## Evaluating Justice Connect's 'Bring Your Bills Day'

Amila Perera, Liz Simpson & Yvonne Lipianin

June 2015



## **Don't Just Sign on the Dotted Line**

Authored by **Amila Perera, Liz Simpson & Yvonne Lipianin**

Published in **June 2015**

The operation of the Australian Communications Consumer Action Network is made possible by funding provided by the Commonwealth of Australia under section 593 of the *Telecommunications Act 1997*. This funding is recovered from charges on telecommunications carriers.

### **MOSAIC, Justice Connect**

Website: <http://www.justiceconnect.org.au/our-programs/mosaic>

Email: [mosaic@justiceconnect.org.au](mailto:mosaic@justiceconnect.org.au)

Telephone: **(02) 8599 2101**

Australian Communications Consumer Action Network

Website: [www.accan.org.au](http://www.accan.org.au)

Email: [grants@accan.org.au](mailto:grants@accan.org.au)

Telephone: 02 9288 4000

TTY: 02 9281 5322

ISBN: 978-1-921974-30-4

Cover image: Ed Butler 2015



This work is copyright, licensed under the Creative Commons Attribution 3.0 Australia Licence. You are free to cite, copy, communicate and adapt this work, so long as you attribute the authors and “**Justice Connect**, supported by a grant from the Australian Communications Consumer Action Network”. To view a copy of this license, visit <http://creativecommons.org/licenses/by/3.0/au/>

This work can be cited as: **Justice Connect, “Don't Just Sign on the Dotted Line: Evaluating Justice Connect's 'Bring Your Bills Day'”, June 2015**

# Acknowledgements

---

This paper has been prepared by Amila Perera, Liz Simpson and Yvonne Lipianin for MOSAIC, a program of Justice Connect.

MOSAIC would like to acknowledge and thank the following organisations for their support, input and involvement in bringing about the 'Bring Your Bills' event:

- Auburn City Council
- University of Sydney
- University of NSW
- Navitas
- Energy & Water Ombudsman NSW
- Australian Red Cross
- Metro Migrant Resource Centre
- Catholic Care
- NSW Fair Trading
- Financial Rights Legal Centre

MOSAIC also extends its thanks to our member law firms who supported the project by providing lawyers to staff the event, namely TressCox Lawyers, Lander & Rodgers, Carroll & O'Dea, Allens Linklaters, and Henry Davis York.

In addition we acknowledge the contribution of the interpreters, Justice Connect staff and volunteers whose invaluable assistance both in the planning stages and on the day contributed to the success of the event.

MOSAIC acknowledges the Australian Communications Consumer Action Network (ACCAN) for its generous support for the project, without which the event itself and the learnings we have derived from it would not have occurred.

# Executive Summary

---

Newly arrived migrants to Australia often experience difficulty in navigating our legal system, including understanding their rights and responsibilities as consumers in relation to services such as mobile phone contracts. Barriers to their comprehension include limited proficiency in English, lack of familiarity with the Australian legal system, and failure to access legal advice prior to entering into contracts due to a lack of awareness about the availability of legal services that could assist them.

Consumers in Australia enjoy some protection. Broadly, the Australian Consumer Law operates to protect consumers in transactions involving the supply of goods and services, including against unconscionable conduct on the part of the supplier. In relation to mobile phone contracts specifically, all carriage service providers in Australia are required to comply with the Telecommunications Consumer Protection Code (TCP), which provides numerous safeguards for consumers. However, evidence shows that the existing framework is not rigorous enough in always protecting the rights of new migrants.

'Bring Your Bills' (BYB) days have shown to be an effective way to provide on-the-spot advice and assistance to clients with complaints about or problems with bills, including mobile phone bills.<sup>1</sup> They also provide an opportunity to educate and raise awareness amongst new migrant communities more broadly about consumer rights and responsibilities. In addition, data captured from such events can highlight recurring themes amongst the experiences of new migrants in relation to consumer contracts, and can shine a light on inadequacies and gaps in the legal and regulatory framework in place to protect consumers.

---

<sup>1</sup> Footscray Community Legal Centre (FCLC) is a particular champion of this service delivery model, which it describes as "a simple, accessible and free clinic having the necessary infrastructure expertise and capacity to assist many more clients than traditional services": Footscray Community Legal Centre Inc, *"Bring Your Bills Clinics" – Model of Service Delivery, Guidelines and Procedures*, September 2011.

# Table of Contents

---

Acknowledgements	i
Executive Summary	ii
1. Introduction	1
2. Literature Review	3
3. Methodology	5
3.1 Operations	5
3.1.1 Venue Planning	5
3.1.2 Event Format	6
3.1.3 Personnel Management & Development of Resources	7
3.2 Stakeholder Engagement & Communications	9
4. Results	11
4.1 Overview of the Bring Your Bills Event	11
4.1.1 Client advice sessions	11
4.1.2 Community information sessions	12
4.2 Feedback interviews with key stakeholders	13
4.3 Reflections on successes and shortcomings	14
5. Case studies	16
5.1 Case Study 1: Mahmoud	16
5.2 Case Study 2: Kamrul	17
5.3 Case Study 3: Saadiq	17
5.4 Case Study 4: Nabil	18
5.5 Case Study 5: Abed	19
6. Themes and Recommendations	21
6.1 Consumer Awareness	22
6.2 Unaffordable Contracts	25
6.3 Sales Practices with Vulnerable Clients	26
6.4 Mixed Dispute Resolution Responses	27
7. Conclusion	29
8. Bibliography	30



# 1. Introduction

---

Justice Connect is a legal organisation that partners with pro bono lawyers to strategically match unmet legal need to individuals and not-for-profit organisations. This is done through referrals for people experiencing disadvantage and targeted programs for the community organisations that support them. Specialist programs include Homeless law, Not-for-Profit Law, Seniors Law, MOSAIC and the Self-Representation Service. Justice Connect also challenges and seeks to change unjust and unfair laws and policies, using evidence from its casework and the stories of its clients to bring about reform.

MOSAIC (Migrant Outreach Services; Advice, Information, Community Education) is a program of Justice Connect which provides a free legal outreach and community education service for asylum seekers, refugees and recently arrived migrants in New South Wales. As well as its legal advice service, MOSAIC provides community education to culturally and linguistically diverse (CALD) communities and caseworkers to encourage early intervention and resolution of civil law issues. It also produces education materials and gives targeted training to pro bono lawyers of the program in areas of law relevant to MOSAIC clients.

Through its casework over the preceding 12 months, MOSAIC had identified a growing number of clients experiencing problems with their phone bills and contracts. Increasingly, it became evident that clients were signing up to contracts without understanding them, due primarily to language barriers and a lack of comprehension of contract terms and conditions. As a result many of these migrants could not afford the contracts. Many clients were not aware of the dispute resolution options available to them, and were unable to take steps to prevent overdue bills and legal action by debt collection agencies.

‘Bring Your Bills’ events have previously been held by other legal organisations throughout Australia, such as Footscray Community Legal Centre<sup>2</sup>, Legal Aid NSW and the Energy & Water Ombudsman NSW (EWON). They have proven to be an effective way of dealing with a number of clients’ legal complaints en masse, improving community understanding of consumer rights and responsibilities, and highlighting recurring themes relating to lack of consumer awareness about contracts amongst CALD communities.

On 9 October 2014 MOSAIC held a ‘Bring Your Bills’ (BYB) Day for new migrants experiencing problems with bills such as mobile phones, energy and water, to give them an opportunity to speak to a lawyer for advice and assistance to clarify any misunderstandings they had about their bills, and to endeavor to resolve their complaints. General information sessions were held alongside individual client consultations, to provide broader community education on matters such as financial counselling and consumer rights.

---

<sup>2</sup> Based on their own success in holding such events, Footscray Community Legal Centre has developed a set of guidelines and procedures to assist and encourage other organisations to host BYB clinics: Footscray Community Legal Centre Inc, above at 1.

In holding the BYB Day, MOSAIC's objectives were to provide legal advice to clients, to coordinate information sessions relevant to bills and managing finances, and to provide direct access to telecommunication industry representatives and the Telecommunications Industry Ombudsman (TIO) for speedy dispute resolution on the day itself.

The BYB Day was supported by a grant from the Australian Communications Consumer Action Network (ACCAN), Australia's peak body for consumer representation in communication. ACCAN aims to empower consumers to make good choices about products and services, focusing on the converging areas of telecommunications, the internet, and broadcasting. The ACCAN grant supported a three-stage project, including the BYB Day, this report, and a project to produce community education videos on mobile phone consumer rights and responsibilities.

Following the BYB Day, we undertook a broad evaluation of the effectiveness of the event. This included conducting qualitative interviews with clients and lawyers, collating data on the number, gender and ethnic background of attendees, identifying how similar events may be better promoted in the future to ensure greater client participation, and following the progress of each case through to its final resolution.

The aims of this report are dual. Firstly, the report seeks to provide some guidance to others interested in hosting their own BYB event: it chronicles our experience of the BYB Day process in detail, from initial planning through to the day itself and post-event evaluation, with a particular emphasis on lessons learnt in order to assist other organisations to hold similar events.

Secondly, the report aims to provide the reader with detailed case studies that highlight new migrants' experience, from entering into mobile phone contracts to the resolution of any legal issues that they encountered. Although this report only examines the experiences of a small group of individuals who participated in MOSAIC's BYB Day, it gives insight into the lived experiences of asylum seekers navigating the legal and regulatory landscape of mobile phone contracts. What is striking is the way in which this cross-section of the population, despite its small size, reflects the broader trends in the existing literature and MOSAIC's previous casework.

MOSAIC identified a number of themes across the BYB mobile phone clients, namely a lack of awareness of consumer rights and industry responsibilities, issues relating to unaffordable contracts, inappropriate sales practices with vulnerable clients, and inconsistent dispute resolution responses from telecommunication service providers. These themes are examined more closely in Part 5 of this report, and a number of recommendations derived from them.

## 2. Literature Review

---

Interest in new migrants' use of communication technology, and awareness of the problems often faced by new migrants in attempting to enter mobile phone contracts, is not new. In recent years, various organisations across Australia have conducted research into the problems encountered by migrants in dealing with the telecommunications industry in Australia.

Significant literature exists that examines the particular telecommunications needs of new migrants, refugees and asylum seekers. In 2009, Dr Linda Leung of the University of Technology, Sydney produced a report into the role that telecommunications play in the lives of asylum seekers and refugees at different stages. These include in escaping situations of conflict in their home countries, in the context of immigration detention in Australia both in communicating with family and in accessing legal advice, and during the settlement process.<sup>3</sup> In 2010 the National Ethnic Disability Alliance (NEDA) looked at the use of communication technology by people from a non-English speaking background (NESB), with a focus on women, young people and people with disability. The report emphasised the importance of telecommunication for social inclusion and, in the case of refugees, the fact that mobile phones can constitute a 'lifeline' for support during the settlement process.<sup>4</sup> In a similar vein, Emma Felton has conducted qualitative research into new migrants' use of mobile and internet communication technologies to help deal with feelings of isolation and loneliness experienced by many after migrating.<sup>5</sup>

The issue of refugees and migrants as vulnerable consumers of telecommunication services has also been the subject of numerous reports. In 2009 the University of Technology, Sydney conducted its 'Mind the Gap' project which looked at the challenges faced by refugees in navigating the telecommunications industry, and the low levels of technology literacy amongst that group.<sup>6</sup> The report emphasised the need for consumer education about telecommunications products and services for refugees prior to their entering into contracts, and recommended that such education should be formalised as part of the refugee settlement process. It also called for better measures in protecting refugee consumers from being locked into contracts they failed to understand in the first place, and for the development of simpler and thus more suitable telecommunications products for new migrants.

The Footscray Community Legal Centre (FCLC) has produced a number of publications on consumer rights and the experiences of refugee and migrant consumers in recent years. Particularly relevantly for this report, FCLC and ACCAN released a report based on case studies of refugee and new migrant

---

<sup>3</sup> Linda Leung, Cath Finney Lamb & Liz Emrys (2009), *Technology's Refuge: The Use of Technology by Asylum Seekers and Refugees*, UTS Shopfront Monograph Series No. 5, UTSePress, Sydney.

<sup>4</sup> D. Wadiwel and C. Hayter, National Ethnic Disability Alliance (2010), *Understanding Communications Consumers from Non English Speaking Backgrounds (NESB)*, Australian Communications Consumer Action Network, Sydney, 52–53.

<sup>5</sup> Emma Felton, *Effective connections: Mobility, technology and well-being*, *Emotion, Space and Society* 13 (2014) 9-15

<sup>6</sup> Leung, L. 2011. *Mind the Gap: refugees and communications technology literacy*, Australian Communications Consumer Action Network, Sydney.

experiences in the communications market.<sup>7</sup> Data was collected over a 6 month period in the course of FCLC's normal practice. The report found that existing telecommunications products are unnecessarily confusing for new migrants and refugees, as service providers did not give adequate consideration to the language and cultural barriers of refugee and migrant consumers, including the need for interpreters and for the availability of information in languages other than English. It also found that inappropriate customer service practices amongst sales representatives increased migrant and refugee consumers' vulnerability in entering contracts they did not fully understand and that there was limited awareness generally amongst new migrants about financial management tools, or consumer protections like the Telecommunications Industry Ombudsman (TIO) complaints mechanism.<sup>8</sup> It recommended a review of the current regulatory framework, including the *Telecommunications Consumer Protection Code* (TCP), and called for improvements to customer service in the telecommunications industry in dealing with vulnerable customers, better education for consumers of telecommunications services by industry, government and the community, and an overhaul of the TIO scheme to make it more user-friendly for vulnerable consumers.<sup>9</sup>

Following the release of the above report, FCLC ran a project to develop community education activities designed to help refugees and new migrant consumers from getting into legal and financial difficulty with telecommunications services, which it documented in a 2012 report.<sup>10</sup> The project saw the use of 'Bring Your Bills' clinics as a useful early intervention process, and the development of basic training materials for use in education sessions for newly arrived communities. FCLC has also produced a report about the disproportionate effect that door-to-door energy sales have on vulnerable consumers, including people of refugee background,<sup>11</sup> and has developed a service delivery model for 'Bring Your Bills Clinics', including the publication of guidelines and procedures.<sup>12</sup>

MOSAIC has considered much of the above literature in the preparation of this report. We note that our own findings following the BYB Day, and our observations from own casework about the experiences of new migrants as consumers of telecommunications services, are broadly consistent with those of previous studies.

---

<sup>7</sup> Footscray Community Legal Centre & Australian Communications Consumer Action Network (ACCAN) 2011, *Taking Advantage of Disadvantage: Case Studies of Refugee and New Migrant Experiences in the Communications Market*, ACCAN Sydney

<sup>8</sup> Ibid, 5-6

<sup>9</sup> Ibid, 7-8

<sup>10</sup> Footscray Community Legal Centre, 2012, *Phones and the Internet: Your Rights in Australia – A community education program for refugees and new migrants*, Australian Communications Consumer Action Network, Sydney.

<sup>11</sup> Laura Berta, Gerard Brody, Cynthia Mackenzie, 2013, *Strangers are calling! The experience of door to door sales in Melbourne's refugee communities*, Footscray Community Legal Centre

<sup>12</sup> Footscray Community Legal Centre Inc, *"Bring Your Bills Clinics" – Model of Service Delivery, Guidelines and Procedures*, September 2011

# 3. Methodology

---

The BYB Day involved significant work in the planning process, including recruitment and training of staff, stakeholder engagement and communications, venue planning and set-up, the creation of policies and procedures to instruct staff and volunteers in the set-up and conduct of the event, and the development of custom-made documents such as intake forms. This section of the report is designed as a guide to the operational aspects of running a BYB Day.

## 3.1 Operations

Decisions made by MOSAIC in the planning stage for the BYB event about venue, format, promotion, stakeholder engagement, and whether or not to formally partner with another organisation in holding the event, all played a role in the success and shortcomings of the project. An evaluation of the event's success and reflections on what improvements to the planning process ought to be undertaken should the project be replicated in the future, are included in Part 4 of this report.

### 3.1.1 Venue Planning

The location of the event was a primary consideration. Evidence suggests that holding a legal service in close physical proximity to the target population is critical for local awareness and demand.<sup>13</sup>

MOSAIC considered a number of potential locations to hold the BYB Day, such as Parramatta Town Hall and Granville, where there are large migrant populations.<sup>14</sup> Some of the concerns associated with locating the event in Western Sydney included additional cost of venue hire, inadequacy of on-site equipment, and potential access issues arising from having a de-centralised location. Moreover, certain inner-city suburbs have the highest percentage migrant populations of all Sydney suburbs, including Haymarket (87.8 per cent) and Sydney (78.4 per cent).<sup>15</sup>

The alternative option was holding the day at the Justice Connect office in Sydney CBD. There were several advantages to this option, namely:

- a) centrality of the CBD location, ensuring easy access to the event by public transport for clients, lawyers and other BYB Day personnel;
- b) no cost for venue hire; and
- c) access to office administration staff and equipment.

To mitigate potential access issues arising from holding the event in Sydney CBD, MOSAIC took a number of measures, including providing a map of the city location with all outgoing

---

<sup>13</sup> Judith Stubbs & Associates, 'Planning for Legal Needs: Legal Needs Assessment Framework' (Summary Report, May 2010) 12.

<sup>14</sup> Australian Bureau of Statistics, Australian Social Trends, 2014, <http://www.abs.gov.au/ausstats/abs@.nsf/Lookup/4102.0main+features102014#SYDNEY>, viewed 23 Feb. 15.

<sup>15</sup> Australian Bureau of Statistics, Australian Social Trends, 2014, <http://www.ans.gov.au/ausstats/abs@.nsf/Lookup/4102.0main+features102014> viewed 23 Feb. 15.

communications, using extensive signs in the four different target languages at the venue (English, Tamil, Farsi, and Arabic), and organising volunteer ‘ushers’ to wait at nearby public transport locations to help BYB participants find the venue.

MOSAIC also liaised with Auburn City Council to arrange the use of two community buses from the Auburn area to the event. Unfortunately, the community buses were not used by BYB attendees. While this was disappointing, MOSAIC believes that such a service could be used to positive effect at future events if the event was held in partnership with another organisation such as a settlement service provider, which would be better placed to advertise the availability of free transport to get clients to the event. The possibility of partnering with other organisations for future events is examined more closely in the Results section of this report in Part 4.

### **3.1.2 Event Format**

As part of the BYB day we organised two separate spaces which performed distinct but complementary functions, namely individual client advice sessions, and general community information sessions.

#### **(a) Client Advice Sessions**

The client advice sessions were held in the Main Hall of the old University of Sydney Law School Building, where desks were staggered to give clients and lawyers more space and some privacy. Upon arrival, clients were directed to a registration desk run by volunteer interpreters, which operated a ‘triage’ system. Depending on the type of bills they had brought with them, clients were then processed using a detailed intake form to ensure that we completed conflict checks<sup>16</sup> and obtained detailed background information before the clients were allocated a lawyer. Face to face interpreters were offered at all stages of the client advice sessions.

In accordance with the focus of our grant, the event was designed in the expectation that the majority of advice provided on the day would relate to mobile phone disputes. Initially, MOSAIC aimed to provide advice at the event to 30 clients in relation to mobile phone contracts. However, in order to avoid the event having too narrow a focus, and given that the infrastructure was already to be in place to provide on-the-spot legal advice to clients about bills, MOSAIC decided to broaden the ambit of the event and also provide legal assistance about other bills clients wished to bring to the event, including water and energy bills. While it was difficult to predict the exact number of participants in the event, we planned the event to accommodate up to 45 advice sessions on the day.

#### **(b) Community Information Sessions**

Eleven sessions were scheduled at half-hourly intervals throughout the entire day, with speakers to provide information to groups of people on topics such as financial counselling,

---

<sup>16</sup> A standard legal procedure whereby a check is conducted to ensure that neither MOSAIC nor the law firm for whom the pro bono lawyer works have ever previously acted for the other party to the dispute, even in an unrelated matter. If so, a conflict exists and the lawyer cannot act. For example, if a law firm has acted for a particular telecommunications company before, their pro bono lawyers will be unable to act for MOSAIC clients presenting with bills from that company, as to do so would place the firm in perceived conflict with the interests of their client.

consumer rights, and consumer scams. Some sessions had a more informal, interactive structure, whilst others were in more of a lecture-type format.

The intention in also hosting the information sessions was to create a “break-out” area, where clients waiting for advice appointments or their friends and family could go to get some practical advice and information materials about consumer rights in an informal environment.

MOSAIC hired six professional face-to-face interpreters for the BYB Day (Farsi, Arabic, Tamil, Hazaragi, and Rohingya speakers). Professional interpreters were supplemented by 10 volunteer interpreters who participated in both advice and information sessions.<sup>17</sup> As noted in the evaluation section of the report, all the clients and lawyers commented on the benefit of face to face interpreters.



*Figure 1 This informal, conversational session was translated into Dari. Another larger session was presented in English, Arabic and Mandarin.*

### **3.1.3 Personnel Management & Development of Resources**

A significant number of people were required to run the BYB day. Recruitment, rostering and training of volunteers and lawyers involved a significant amount of advance preparation. The different groups of people recruited to run the event were as follows:

- 20 pro bono lawyers from Tresscox Lawyers, Lander & Rodgers, Carroll & O’Dea, Allens Linklaters, and Henry Davis York, who were provided with 2 hours of specially developed training in advance of the day on consumer law, in particular as it relates to mobile phone and other bill disputes.

---

<sup>17</sup> Volunteer interpreters were available in the following languages: Farsi, Tamil, Arabic (Sudanese), Mandarin, Cantonese, Shanghainese, Urdu, Hindi, Dari.

- A total of 18 volunteers were recruited from community organisations and universities to act as interpreters and/or ushers helping on the day. Many of these volunteers were bilingual, and the recruitment of volunteers was another method of promoting the event. For example, our recruitment of Mandarin and Cantonese volunteer interpreters was a factor which encouraged students from Navitas English classes to attend the BYB community information sessions. The day before the BYB event, Justice Connect held a briefing session for the volunteers to provide them with an overview of the event and their role on the day.
- In addition to volunteer interpreters, MOSAIC hired Farsi, Rohingya, Arabic and Tamil interpreters to assist with the advice sessions. On the day, the professional interpreters also translated some of the information sessions and helped with the intake and registration of clients.
- A number of speakers from a variety of community organisations were invited to present on the day at the community information sessions. In addition MOSAIC contacted the Energy & Water Ombudsman NSW (EWON) and each of the major telecommunications companies (Vodafone, Telstra and Optus), and requested their involvement at the event, for the purposes of increasing the capacity for on-the-spot resolution of complaints on the day.

Both the MOSAIC Manager and two legal administrators were available on the day to provide the lawyers, volunteers and participants with support and supervision.

To provide support to the lawyers and volunteers, prior to the event MOSAIC created a comprehensive guide about mobile phone disputes, and tailored factsheets on other common issues such as false/misleading advertising, debt collection, and financial hardship. These materials were distributed to participating lawyers before the day, to ensure they were prepared to give advice at the event on a range of potential legal queries.

MOSAIC also drafted customised intake forms, client questionnaires and case study consent forms to ensure the smooth running of the event. Appropriate internal procedures for client information sharing and management at the event were also developed.

## 3.2 Stakeholder Engagement & Communications

Targeted stakeholder engagement and communications were crucial in the lead-up to the BYB Day.

Data reporting from MOSAIC's outreach program showed that the languages most frequently spoken by MOSAIC clients are Farsi, Arabic and Tamil. As part of the communications strategy, MOSAIC posters advertising the event were printed in English, Farsi, Arabic and Tamil. They were designed in simple language, making clear that MOSAIC provided free legal help and not financial assistance to pay bills, and included a map for the venue. 547 posters were distributed to community legal centres, community organisations, and settlement service providers prior to the event. The poster was also distributed electronically to 233 individuals and organisations, and was shared via Justice Connect social media on Facebook and Twitter. Furthermore, shortly before the event MOSAIC's quarterly e-newsletter was sent out to 31 caseworkers. The edition highlighted legal issues relating to mobile phones and consumer rights, and again advertised the upcoming BYB day.

Media also formed part of our communications strategy in the promotion of the event, and MOSAIC approached a number of local community newspapers with media releases for the BYB Day. Although there was resistance on the part of some publications to running a local news story due to the event's city location, news articles on the BYB Day appeared in both the Inner West Courier and the Auburn Review.

In addition to our general external communications activities, MOSAIC also undertook significant stakeholder engagement prior to the event, meeting and speaking to a diverse range of parties including CALD community organisations, telecommunications companies, and settlement service providers prior to the event, with a view to encouraging widespread participation on the day.

One of the innovations and successes of the MOSAIC BYB Day was the participation of telecommunication industry representatives in the event. In the lead up, MOSAIC negotiated with Telstra, Vodafone and Optus to give staff direct access to dispute resolution officers on the day with sufficient authority to approve payment plans. This meant a significantly expedited dispute resolution process for BYB clients. By contrast, when previously dealing with mobile phone matters in our casework, MOSAIC lawyers often spent significant time speaking to the general customer service representatives to get in contact with an appropriate representative. The work undertaken prior to the day in getting telecommunications companies to commit to participating in the event was integral to the efficient resolution of matters and to the day's overall success.

Similarly, prior to the BYB Day MOSAIC also contacted EWON, which agreed to provide two on-site investigation officers at the event. Again, EWON's physical presence at and active participation in the BYB Day allowed for speedy resolution of matters relating to energy and water bills.

In the lead-up to the event MOSAIC representatives also attended 30 community events, caseworker staff meetings and regional interagency meetings to promote the BYB Day, including visiting settlement service providers such as Australian Red Cross and Metro Migrant Resource Centre, and community events and meetings such as a Consumer Rights Seminar held by NSW Fair Trading at



Figure 2 - Bring Your Bills Poster (English)

Fairfield, the Auburn Community Sector Network Forum, and the Bankstown Canterbury Migrant Inter-Agency meeting.

Navitas' support for the event proved particularly effective on the day. Navitas is an adult education provider, which amongst other services provides English language classes to new migrants. Prior to the event MOSAIC engaged with the Navitas campus in Wynyard to promote the event, indicating that interpreters in various languages including Mandarin and Cantonese would be available to translate sessions (a significant number of Navitas' students speak these languages). Clients referred to the BYB Day by Navitas ultimately formed the majority of the participants at the community information sessions, as detailed later in the report.

## 4. Results

---

To evaluate the BYB event, MOSAIC recorded various outputs and activities, including:

- the number of participants in the event;
- demographic information about clients (gender, age and language spoken);
- the number of promotional and information materials distributed prior to and at the event;
- the number of participating volunteers.

MOSAIC staff also conducted qualitative interviews with key stakeholders including clients and lawyers after the event. Finally, MOSAIC has closely monitored the progress of each of the mobile phone BYB clients' matters (which are reported separately in the case study section of this report).

### 4.1 Overview of the Bring Your Bills Event

A total of 134 people attended and participated in the BYB Day. There was a particularly strong response to the information sessions with a total of 120 new migrants attending these sessions, far exceeding MOSAIC's expectations. Conversely, participation in the individual client advice sessions was lower than anticipated, with only 12 clients presenting with bills to access advice on the day (BYB clients). Two clients sought advice on legal issues unrelated to bills, and were referred appropriately.

#### 4.1.1 Client advice sessions

Disappointingly, the aim of providing advice to at least 30 clients on mobile phone bill matters in individual client advice sessions was not met. Only 12 clients sought advice about bills on the day, and of those only 5 brought mobile phone bills.<sup>18</sup>

Several clients also brought more than one bill. Of the 12 clients who registered for BYB advice sessions, two clients brought both a mobile phone bill and an energy bill and one client brought multiple mobile phone bills (from different providers).

Two clients also sought advice for non-bill related matters on the day and were given appointments at the MOSAIC general outreach service. Given that only two people sought advice for non-bill related matters on the day, this confirms that our communications were at least effective insofar as the overwhelming majority of participants were eligible for assistance.

A majority of BYB clients were Farsi speakers. Other languages spoken by clients included Pashto, Dari, Rohingya and Arabic. Seven of the clients were male and 5 were female.

---

<sup>18</sup> Several clients sought advice about more than one bill, however, with two seeking both energy & phone advice, and one client seeking assistance with two different phone disputes.

### 4.1.2 Community information sessions

There was very strong participation in the information sessions: 120 people attended the sessions, and collected 287 pieces of information material. Information session participants came from a wider cross-section of language groups than the BYB clients, including Arabic, Mandarin, Cantonese, Dari, Japanese, Spanish, and Vietnamese. No data was collected about the gender of information session participants.

The eleven information sessions were held by presenters from ACCAN, Catholic Care, NSW Fair Trading, and the Financial Rights Legal Centre. With the assistance of the interpreters in attendance, some of the information sessions were translated into other languages. One session was conducted in Dari and English, for example, while another large session was presented in English, Arabic and Mandarin.

In addition to the information sessions, information materials were also available from the Telecommunications Industry Ombudsman, Women's Legal Service, MOSAIC, Financial Rights Legal Centre, Catholic Care, Sydwest Financial Centre, NSW Fair Trading and the Energy and Water Ombudsman of NSW. Some of the materials were available in other languages, including Arabic, Vietnamese, simplified Chinese, Dinka and Tamil. Over 250 information materials – brochures, leaflets, postcards, and information packs – were taken by information session participants.

As previously indicated, the community information sessions were designed to supplement the client advice sessions – which were expected to be the primary focus of the day – and give participants information and activity to occupy them while waiting for an advice appointment. In fact, the numbers that attended the information sessions far exceeded our expectations and also brought a different type of client to the event. If the event were to be replicated in future, it could also be marketed as a community advice and education day, encouraging attendees to participate in both aspects of the event.

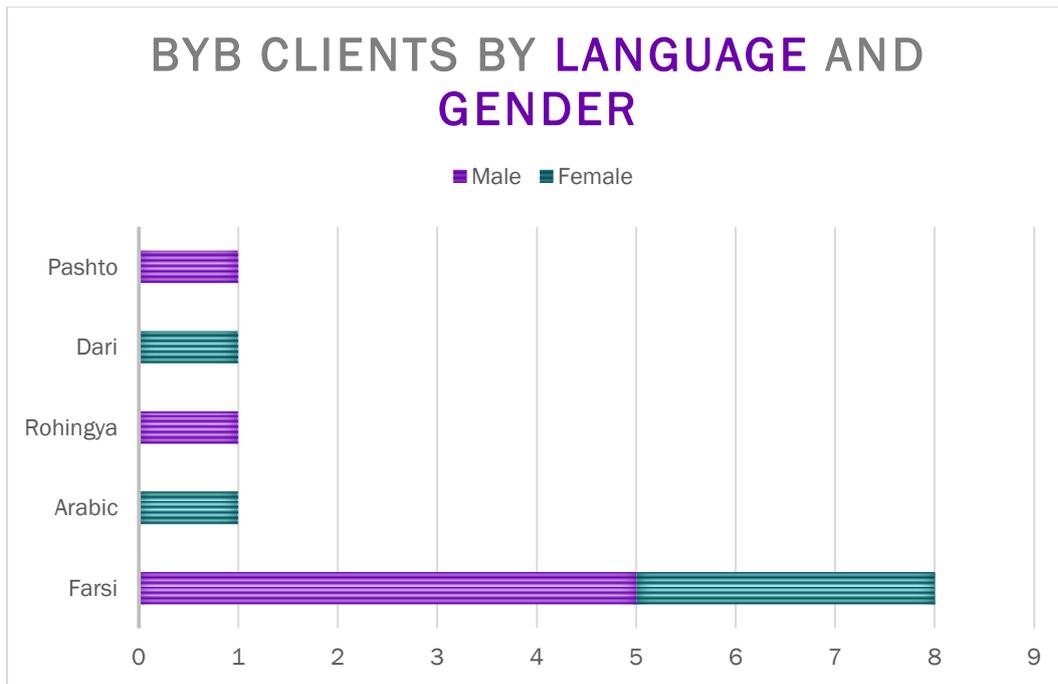


Figure 3 BYB Clients by Language and Gender

## 4.2 Feedback interviews with key stakeholders

Following the event, Justice Connect contacted all key stakeholders and conducted interviews with three clients, one caseworker, five pro bono lawyers, four information session speakers, and two volunteers. Feedback from the day was generally positive, with participants commenting that the event was useful and ran smoothly. Where possible, direct quotations have been provided in this report, to convey the participants' views verbatim (as spoken or translated).

After the event, one of the clients interviewed expressed some frustration about delay in the resolution of his matter following the BYB day, noting that he had been waiting for 1-2 months to see whether the lawyer could help, and was still waiting for a response. However the other two clients were happy with the assistance they had received from MOSAIC lawyers. For example, when describing his experience of the service, client Kamrul\* said:

*“First of all I have been treated very well, nicely and also the problem I was thinking that they are going to resolve my problem. I couldn't do this by myself – I'm new to this country and [the company] just drove me crazy. I couldn't do anything”.*

Similarly another BYB client said that he was happy with his lawyer and added that since he now trusted his lawyer he didn't need to go back to his caseworker for further assistance. Caseworker feedback echoed this comment. The caseworker interviewed said that she would refer clients to MOSAIC in future, because the service could help clients with payment plans or advocate on their behalf so that they don't have to pay such high bills. She said it would be helpful to advise caseworkers of future BYB events so they could pass on details to clients.

The lawyers interviewed commented mainly on the efficiency of the event. All of the lawyers found the customised intake form helpful to gather all the relevant details for identifying legal issues. As one lawyer said:

*“Much of the information came out in any event, but it was good to have those mobile phone contract specific questions just to get a specific level of detail relating to mobile phone contract disputes.”*

Lawyers also gave positive feedback on the advice sessions’ structure, with the availability of on-site interpreters and direct access to dispute resolution officers. For example, one lawyer commented:

*“It was good being able to call them there and then and I could clarify when she said this is what he signed up to, and I could ask, ‘Did you get a copy of the contract and was it explained to you?’ – it was good being able to do that directly.”*

In relation to the community information sessions, speakers who were interviewed reported that they did not receive much feedback from their sessions’ participants, but noted that people were generally engaged although there were varying levels of consumer knowledge in the different groups. A volunteer interpreter who translated one of the sessions in Dari observed the utility of providing information which catered directly to the listeners:

*“People understood what was being said and got helpful information. It was good because the people giving the sessions tailored the information to [those attending]”.*

The above feedback related specifically to the structure of the event and its operation on the day. Clients were also interviewed about their understanding of the legal issues surrounding mobile phone contracts, and their experiences as consumers of telecommunication services. Their feedback on these issues is discussed in the ‘Themes and Recommendations’ section of this report at Part 6.

*\*Client’s name has been changed.*

### **4.3 Reflections on successes and shortcomings**

Following the event, the lower than expected number of attendees at the client advice sessions on the day gave MOSAIC cause to reflect on whether the city had ultimately been the best location for the event, or whether it would have been more popular had we held it in an area of Western Sydney with a high migrant population, such as Auburn. Clients’ lack of familiarity with the venue and with the Sydney CBD more generally may well have been a factor contributing to the low numbers of people who attended this aspect of the event. However, the fact that the community information sessions were so well-attended suggests that the location of the venue was not the only problem, but that there were also other factors that played a role.

It is more likely that the relative success of the different events on the day relates to the role that supporting organisations played in promoting the event. As previously outlined, MOSAIC contacted Navitas as part of the stakeholder engagement undertaken prior to the event. While MOSAIC did not have any formal partnership arrangement with Navitas in relation to the BYB event, it is clear that Navitas was critical to the success of the community information sessions given that it was its

students and teachers that formed the bulk of the attendees at that aspect of the event. While it was not MOSAIC's intention to rely so heavily on any one organisation to support the event, we were glad that Navitas took such an interest in the project as we clearly benefited significantly from their active promotion of the community information sessions.

In relation to the client advice sessions, the fact that all of the mobile phone BYB clients were ultimately referred to the event by their caseworkers underscores the critical role that settlement service provider organisations often play as the conduit between clients and external service providers like MOSAIC. This highlights the importance of stakeholder engagement with settlement service providers in the promotion of such events, as it is clear in this case directly appealing to the caseworkers and generating awareness amongst them about the BYB event was a markedly more effective means of getting clients to the BYB day than our general distribution of printed communications.

However, the low number of attendees at the client advice sessions indicates that the level of stakeholder engagement before the event was insufficient to attract the numbers we would have liked to have seen. It is worth noting that in the two weeks following the BYB Day, MOSAIC received a higher than average number of requests for assistance with mobile phone matters, suggesting that the event was at least successful in generating a broader awareness of the issue in the community, and of the availability of MOSAIC's legal service to assist with such queries. Nonetheless, the number of attendees at the client advice sessions component of the event was lower than we were expecting. While we had contacted caseworker organisations to promote the event beforehand and had received assurances from individual caseworkers that they would send clients to the BYB day, this activity did not translate into the number of client referrals we had anticipated it would. This is despite the fact that such organisations have daily contact with a large number of new migrants, our target group.

On reflection, it may have benefited us to have established formal relationships with the caseworker organisations in relation to the BYB event, as this would have encouraged these organisations to develop more of a sense of ownership over the project, thereby increasing their feelings of responsibility towards it to ensure good levels of client attendance. By contrast, when we have worked on other projects in the past in partnership with another organisation – for example, the outreach service that we established with Red Cross in 2014 – the other organisation's level of involvement and integration in the project has meant that it is significantly more invested in ensuring the project's success, resulting in a much higher level of client referrals.

Should MOSAIC hold another BYB event in the future, it is quite likely that we would rethink the venue of the event, as we accept that the event's location probably played a role in the lower than expected number of participants. We would also give strong consideration to partnering in the project with a caseworker or other community organisation. This would take advantage of access to our target group, better capitalise on caseworkers' strong and trusting relationships with clients, and harness partner organisation interest and participation in the event to ensure greater levels of client attendance.

## 5. Case studies

---

Since the BYB day, Justice Connect has been carefully monitoring the progress of each client's matter in order to provide case studies as part of this report. These individual stories have also been analysed to enable us to identify common themes and make recommendations (see below).

We note that the sample size of the client group that our BYB clients represent is small, so caution is required in making sweeping generalisations about how their experiences accurately reflect those of the new migrant population more broadly. However, qualitative research can play an important role in giving a voice to members of marginalised populations.<sup>19</sup> The qualitative research undertaken as part of the BYB evaluation process strongly reflects the experiences documented in previous qualitative studies on migrants' and refugees' interactions with the Australian communications consumer landscape,<sup>20</sup> as well as themes arising in previous MOSAIC casework.

### 5.1 Case Study 1: Mahmoud

Mahmoud\* is an Iranian asylum seeker who arrived in Australia with his wife in 2012. They have had a child since coming to Australia, and find it difficult to make ends meet as they are not allowed to work here.

In 2014 Mahmoud signed up for a 2 year iPhone contract. At the store, a sales representative explained the contract to Mahmoud and told him he had \$700 credit per month. Though he did not receive any explanation of the call rates, Mahmoud was not afraid of exceeding the plan because of the large amount of credit that he received as part of the sales offer.

After a couple of months, Mahmoud began receiving large phone bills for more than \$300 per month. When he could not pay them, his phone was disconnected. He contacted the service provider and explained he could not afford these large bills. The provider offered him a payment plan to meet the debt, but would not reconnect the service. Since he was unemployed and had to support his young family, Mahmoud found himself in a very difficult situation. Without any source of income, he resorted to loaning his iPhone handset to friends for payment in order to meet living expenses.

By the time Mahmoud came to the BYB event, he owed the phone company more than \$2,000. MOSAIC lawyers on the day rang the company and explained Mahmoud's personal circumstances, demonstrating he was experiencing financial hardship. The pro bono lawyer subsequently sent a letter explaining Mahmoud's situation, in response to which the entire debt was written off as uneconomical to pursue, and the matter withdrawn from credit collection.

---

<sup>19</sup> Paul Atkinson, Sara Delamont and Amanda Coffey, *Key Themes in Qualitative Research: Continuities and Changes* (Altamira Press, 2003) 80.

<sup>20</sup> Dinesh Wadiwel and Carrie Hayter, *'Communicating Difference: Understanding Communications Consumers from Non English Speaking Backgrounds'* (Research Report, National Ethnic Disability Alliance and Australian Communications Consumer Network, 2010) 45.

## 5.2 Case Study 2: Kamrul

Kamrul\* is an Iranian asylum seeker who moved to Sydney in 2012. He is not allowed to work in Australia, making it very difficult for him to meet basic living expenses.

When Kamrul signed up to his iPhone contract, he thought he was signing up to pay a maximum of \$60 per month. At the BYB event, Kamrul told his lawyer that no one at the store had told him that in addition to the \$60 monthly fee for his two year contract, he would also need to pay extra for the handset. He also wasn't aware of the extra charges for overseas calls or data usage.

In July 2014, Kamrul started receiving large phone bills. He contacted the company and was told that the large bills were for exceeding his data limit, but they did not provide a record of his data usage.

At the BYB Day, Kamrul had \$537.00 in outstanding charges. He wanted to cancel the contract to avoid any future excess charges. A MOSAIC pro bono lawyer rang the company during the initial advice session but was referred to another department that could not provide immediate assistance on the day. After the event, the MOSAIC lawyer continued to advocate on Kamrul's behalf, and after two months the telecommunications company agreed to reduce its bill to \$377 and to refund Kamrul \$135 that he had paid in third party charges.<sup>21</sup>

As Kamrul was unable to pay this amount upfront, his lawyer organised a payment plan for him of \$20 per fortnight, payable until the debt is completely paid off.

## 5.3 Case Study 3: Saadiq

Saadiq\* arrived in Australia in 2013 and moved from Brisbane to Sydney late last year. Since moving to Sydney he has found it harder and harder to make ends meet, as he is not able to work and receives only approximately \$200 per week in government support payments.

In July 2013 Saadiq signed up for two iPhone contracts, each for two years with two different companies. At the first company, Saadiq provided a bank statement which showed that he had a \$0 balance, and he explained that he was unemployed. The in-store representative however told Saadiq that he could say that he was employed in order to secure a contract. Saadiq followed this advice and signed up to a two year contract. At the second store, the representative asked Saadiq whether he was working but subsequently advised him, "you should say you work" so he could receive a handset immediately. Although Saadiq told both representatives he couldn't speak English, he was told to "just sign", and he didn't receive any explanation in his own language of any other charges associated with his contracts.

---

<sup>21</sup> Third party charges are charges on a person's mobile phone account from a company other than the service provider, for eg. fees associated with a mobile phone application. In cases like this one, such charges are sometimes incurred without the person's explicit authorisation or awareness. The position of the Telecommunications Industry Ombudsman (TIO) on this issue is that if a service provider intends to allow a person to incur charges for third party products on their bill, the person ought to be made aware of this before they incur the charges. See Telecommunications Industry Ombudsman, *Position Statement: Charges*, 7 October 2014.

On New Year's Eve 2014 things got worse for Saadiq. He was walking home from getting his government support payments when the cash was stolen. Consequently, Saadiq had to sell one iPhone handset in order to cover his rent, and the other one to put towards his mobile phone bills. Saadiq's caseworker helped him to cancel the contracts, but by that time he had a debt of over \$2,000.

Following the BYB day, a MOSAIC pro bono lawyer negotiated with one provider to waive the outstanding bills and termination fees. Initially the company said it would only waive the bill if Saadiq returned the phone, which he had already sold. He had not been informed by the sales representative when entering into the contract that he would not own the phone until he had complied with payments for the full term of the contract.

The pro bono lawyer pointed out to the provider that the sales representative's conduct in inducing Saadiq to enter into the contract amounted to unconscionable conduct under Australian Consumer Law, in that he had ignored Saadiq's inability to make the required payments under the contract and had disregarded the fact that Saadiq did not clearly comprehend the contract into which he was entering. After further negotiations, the provider waived the debt in full and the matter was withdrawn from credit collection.

In relation to Saadiq's other contract, he tried several times to get a copy of his bill from the company but was told that they did not have any accounts open in his name. Our file for this matter was unfortunately closed prior to resolution, as contact with Saadiq was lost.<sup>22</sup>

## 5.4 Case Study 4: Nabil

Nabil\* had been living in Australia for less than one year when he signed up for a two year Samsung S4 contract.

At the store, there was one representative who could speak Nabil's language at a very basic level. This representative explained that the plan was \$60 per month, and showed Nabil the range of handsets that he could choose from. Nabil had seen an advertisement for the \$60 plan and did not realise that handset repayments and insurance would cost extra. Nabil told a lawyer at the BYB event that because of the representative's limited ability to speak Persian, he did not explain any of the other charges to Nabil.

After he signed the contract, Nabil began receiving bills of up to \$150 each month. While he tried to meet the costs for the first 6 to 7 months, it became clear that he was unable to afford his plan.

---

<sup>22</sup> While this was disappointing, it is not an uncommon occurrence amongst our client group. Asylum seekers often have multiple workers assisting them with various legal and other issues at any given time. If a client's phone is lost or disconnected, confusion as to which organisation was assisting them with which problem means the client at times might fail to re-establish contact with a worker despite the fact that the matter remains outstanding. They are also often heavily reliant on their caseworkers to communicate with other workers; if they lose their caseworker, they may not have the confidence to maintain their relationship with other professionals. In addition, our clients are sometimes re-detained without warning by the Department of Immigration and Border Protection, whether for removal or for some other reason.

At the BYB event, a MOSAIC lawyer rang the company who said that Nabil's only option was to pay the full amount owing. Nabil's service was subsequently disconnected and he was charged an extra \$800 in cancellation fees.

Nabil also told his lawyer that at the time he signed the contract he was not asked about his residency status or requested to provide bank statements. When a MOSAIC lawyer subsequently asked for more information about the contract, some inconsistencies emerged. According to the phone company's records Nabil was listed as a student, and the company alleged that a credit check had been done before it had agreed to the contract. However, Nabil told his lawyer that he had never been asked about his residency status or asked to show the store representative any bank statements or financial records when he was there.

The MOSAIC lawyer made a complaint to the Telecommunications Industry Ombudsman (TIO) asserting that Nabil should not have been signed up to a 24 month contract due to his financial status and limited English. Subsequently, the telecommunications company agreed to waive the bill on the proviso that Nabil returned the phone in good working condition. Unfortunately Nabil's phone was broken and the screen was smashed. The lawyer continued to negotiate on his behalf, and eventually the company acknowledged that it had been "in error" and should not have signed Nabil up to a 24 month contract. In January 2015 Nabil returned the broken phone to the company, and the debt was waived in full.

## 5.5 Case Study 5: Abed

Abed\* arrived in Australia in 2012 as an asylum seeker. At the time of the BYB event, he had been unemployed for about a year and had no savings. He was receiving government assistance of approximately \$500 per fortnight.

In 2013 Abed signed up to a mobile phone plan for \$40 per month which he regularly exceeded because of calls to his family overseas. To try and avoid these excess charges, Abed was persuaded by the service provider to upgrade to a new contract. Unfortunately, Abed did not realise that by upgrading his contract he would have to pay an early termination fee for the previous contract, as well as pay out the remainder of that contract. Despite the fact that Abed was physically present in the service provider's retail store when he entered into the new contract, Abed was not provided with a copy of the new contract when he signed it.

When Abed came to the BYB event he was \$783.50 in debt to the phone company. A MOSAIC lawyer called the service provider on the day on his behalf and continued to negotiate with them after the event to resolve the matter. The lawyer explained that Abed had limited English skills and required a Hindi interpreter for clear communication. Due to his poor English, Abed had not understood that he would be required to pay a termination fee when he had upgraded his phone contract. It was argued that the phone company's conduct in failing to provide Abed with an interpreter and therefore to communicate this condition to him clearly amounted to a false and misleading representation.

The pro bono lawyer also explained to the service provider Abed's difficult financial circumstances. The lawyer initially requested that the termination fee be waived and that a realistic repayment plan for the remainder of the debt be arranged. The company's response however was to waive the debt

in full rather than pursue the outstanding amount, given the circumstances surrounding the upgrade and Abed's obvious financial hardship.

*\*Clients' names have been changed, however all clients have given consent for their stories to be included in this report.*

## 6. Themes and Recommendations

---

This section discusses common themes arising out of the case studies presented above, and makes recommendations about changes to industry practice to counter them. It is important to note that each case brought to the BYB event invariably highlighted a number of the themes identified below.

The telecommunications industry in Australia is regulated by the Australian Communications and Media Authority (ACMA), under which the Telecommunications Consumer Protection Code (TCP) is registered. The TCP Code is a code of conduct formulated by Communications Alliance Ltd, the representative body for the Australian communications industry. All carriage service providers who supply telecommunications products to customers in Australia are required to observe and comply with the TCP Code.<sup>23</sup> The TCP Code includes provision for the referral of complaints to the Telecommunications Industry Ombudsman (TIO); pursuant to the *Telecommunications (Consumer Protection and Service Standards) Act 1999 (Cth)*, all carriage service providers are required to comply with the TIO scheme.<sup>24</sup> Compliance with the TCP Code is monitored and reported on by Communications Compliance, an independent body created for this purpose;<sup>25</sup> in the event of non-compliance, the *Telecommunications Act 1997 (Cth)* gives ACMA enforcement powers under a graduated enforcement regime, culminating in the power to institute proceedings against service providers in the Federal Court for recovery of pecuniary penalties.<sup>26</sup> As such, the TCP Code is legally binding and therefore holds force in the industry. Based on our experience through our casework at MOSAIC, pointing out potential breaches of the TCP Code to service providers has at times proven to be effective in getting clients' debts waived and unfair contracts set aside, without the need for further enforcement action.

More broadly, the telecommunications industry is also governed by the provisions of the Australian Consumer Law (the ACL),<sup>27</sup> which includes safeguards against unconscionable conduct in the supply of goods and services. The Australian Competition and Consumer Commission (ACCC) is empowered with enforcement of this legislation in relation to contraventions committed by the telecommunications industry, for example by the issuing of infringement notices where there have been contraventions of an industry code.<sup>28</sup> A recent demonstration of the ACCC exercising its powers of enforcement against the telecommunications industry came in December 2014, when it issued an infringement notice against Telstra for \$102,000 for making a false and misleading representation about a product price in an advertisement for its Apple iPhone 6 and phone plan bundle.<sup>29</sup>

---

<sup>23</sup> Clause 1.3.1, *Telecommunication Consumer Protection Code*, May 2012; see also section 110, *Telecommunications Act 1997 (Cth)*

<sup>24</sup> Section 132, *Telecommunications (Consumer Protection and Service Standards) Act 1999 (Cth)*

<sup>25</sup> See Part 9, *Telecommunication Consumer Protection Code*, May 2012

<sup>26</sup> See Parts 25 to 32 of the *Telecommunications Act 1997 (Cth)*

<sup>27</sup> Set out in Schedule 2 of the *Competition and Consumer Act 2010 (Cth)*

<sup>28</sup> Section 51ACD, *Competition and Consumer Act 2010 (Cth)*

<sup>29</sup> <https://www.accc.gov.au/media-release/telstra-pays-102000-penalty-following-accc-infringement-notice-for-iphone-6-advertisement>

Despite the above regime however, the BYB clients' experiences in relation to mobile phone contracts demonstrates that the existing legal and regulatory framework alone is inadequate in protecting the rights of newly arrived migrants in entering into such contracts in the first place.

## 6.1 Consumer Awareness

Under the TCP Code, telecommunications companies have an obligation to obtain consumers' consent in a fair and accurate manner before entering into a contract with them (clause 4.3.4), and to take reasonable steps to cater to the needs of disadvantaged or vulnerable consumers in their dealings with them (clause 4.4.3). These provisions are designed to regulate sales representatives' conduct in enticing consumers into entering contracts at the outset, and place positive obligations on telecommunications companies that go beyond the provisions of the Australian Consumer Law. Clause 4.4.3, for example, requires telecommunications companies to provide training to their sales representatives on how to interact with disadvantaged or vulnerable consumers appropriately.

In relation to communicating with non-English speaking consumers however, the provisions of the TCP Code are lacking. While the Code places an obligation on telecommunications companies to ensure sales staff are able to communicate effectively in English (clause 4.4.1(a)), this is of no assistance to *consumers* who do not speak or are not proficient in English. Clause 4.4.1(b) does place an obligation on telecommunications companies to provide reasonable information to assist non-English speaking consumers to find out where to obtain help in another language in dealing with the company, however only in circumstances in which the company has *advertised its services* in that language. This obligation therefore only applies in quite specific circumstances. In relation to telecommunications companies' obligations in communicating with non-English speaking consumers outside of this situation, the TCP Code is silent. While clause 4.4.3 (referred to above) could reasonably be interpreted as requiring telecommunications companies to use translating services when communicating with non-English speaking consumers, no guidance on the interpretation of this provision has yet been provided by ACMA or the TIO.

The most common theme from client stories collected on the BYB day, as well as from MOSAIC's previous client casework, is a fundamental lack of understanding of contracts and the associated legal liability. A 2013 study on refugees' information literacy found that a low-level English language and technology skill, and unfamiliarity with Australian information landscapes, was a significant barrier to social inclusion.<sup>30</sup> According to that study, 'refugees experience information overload and pressure to make decisions with information before they are able to effectively process it'.<sup>31</sup> This is partly because information is often provided in printed and electronic formats which require good language and technology literacy,<sup>32</sup> when refugees who are still settling in are heavily reliant on 'visual and social or embodied forms of information communication'.<sup>33</sup>

---

<sup>30</sup> Annemaree Lloyd et al, 'Connecting with New Information Landscapes: Information Literacy Practices of Refugees' (2013) 69 *Journal of Documentation* 121.

<sup>31</sup> *Ibid* 123.

<sup>32</sup> *Ibid* 136.

<sup>33</sup> *Ibid* 129.

All of the BYB clients interviewed reported that they did not fully understand the contracts they were entering. For example, BYB client Saadiq\* understood that he had a monthly liability on his contract, but did not realise that transferring his number would automatically cancel the contract, leaving him with large termination fees. He thought he would be able to continue paying out the contract, and did not understand why he received charges unrelated to his actual mobile phone use:

*Why Vodafone cancel? I keep paying, plan paying, but why cancel? I transfer my number – it's my number. Not another person number.*

Saadiq is not literate in English. He said if he were now faced with a similar situation, he would want to seek legal advice before making decisions about mobile phone contracts. This strongly points to the need for facilitating alternative methods of communication, such as provision of graphic information and materials in plain English, access to interpreters, or materials translated into other languages.

In a report on the habits and needs of communications consumers from culturally and linguistically diverse (CALD) backgrounds, Wadiwel and Hayter highlighted the importance of using interpreting and translation services to give CALD consumers the necessary information on contracts, legal rights and how to seek recourse if necessary.<sup>34</sup> To that end, their report recommended that telephone interpreting services should be provided at no cost to low English proficiency consumers at the negotiation stage just prior to entering a telecommunications contract.<sup>35</sup>

This recommendation is consistent with the feedback received from the BYB clients at the event. The clients were asked what would assist them to make an informed decision at the point of sale, and all responses related to addressing the language barrier:

*My recommendation is that unless they understand the whole contract, because of the lack of language no contract should be valid until this is properly explained. Without English you are signing a document which may bring you a lot of issues so my recommendation is that to understand the whole contract in my native language or in the native language of a non-English speaking background. This is the most important thing.*<sup>36</sup>

The above clearly demonstrates that the existing safeguards in the TCP Code are inadequate to protect the rights of clients with a low level of English proficiency at the point of entering into mobile phone contracts, despite the vaguely-worded requirement it imposes on companies to “take reasonable steps to cater for the needs of disadvantaged or vulnerable consumers.” A greater level of specificity is required in relation to companies’ obligations in communicating with non-English speakers, to ensure that these consumers’ genuine consent is indeed obtained prior to their entering into a contract with the company.

---

<sup>34</sup> Dinesh Wadiwel and Carrie Hayter, ‘Communicating Difference: Understanding Communications Consumers from Non English Speaking Backgrounds’ (Research Report, National Ethnic Disability Alliance and Australian Communications Consumer Network, 2010) 45.

<sup>35</sup> Ibid

<sup>36</sup> Interview with BYB Client Nabil\* (Sydney, 28 November 2014).

### Recommendation 1

**Australian Communications and Media Authority (ACMA) to produce guidance** on telecommunications companies' obligations under clause 4.3.4 of the TCP Code, as to the circumstances in which it is **necessary and appropriate to use interpreting services** when communicating with non-English speaking consumers before they can consent to enter into mobile phone contracts.

### Recommendation 2

**Telecommunications Industry Ombudsman (TIO) to produce a position statement** about telecommunications companies' **use of interpreting services** when communicating with non-English speaking consumers, to assist in its resolution of complaints about contracts argued to be unfair on the basis that they were not properly understood due to a language barrier.

### Recommendation 3

Contracts and product disclosure statements should be made available **in range of formats to be accessible for individuals with limited English language skills**, including availability of translated materials, infographics, and plain English versions.

It is also important to note that settlement service caseworkers play a large role in helping new migrants acclimatise to their new communities and information landscapes, by providing advice and connecting clients to other services.<sup>37</sup> Lloyd et al note that '[c]ase workers and volunteers take on the role of navigators, assisting refugees in meeting their compliance requirements and in their mapping of formal information sources.'<sup>38</sup> As noted earlier in this report, this was reflected in the turnout at BYB client advice sessions, where all mobile phone clients had been referred by their caseworkers.

Literature on the experience of new migrants to Australia has noted that, because of their unfamiliarity in the new information landscape and their particular needs as a group, 'new arrivals are likely to benefit from an early introduction to communication technologies such as phone cards or internet email accounts that are cost efficient for communicating with family overseas.'<sup>39</sup> Unfortunately, some BYB clients only became aware of such methods after experiencing excess charges on a post-paid contract they had entered into. Once clients were made aware of the more easily managed pre-paid options, they were willing to take this option in order to manage their spending.

---

<sup>37</sup> Ibid; Linda Leung, Cath Finney Lamb and Liz Emrys, *Technology's Refuge: The Use of Technology by Asylum Seekers and Refugees* (Monograph No 5, UTS Shopfront Monograph Series, 2009) 45.

<sup>38</sup> Lloyd et al, above at 21, 135.

<sup>39</sup> Leung, Lamb and Emrys, above at 28, 45.

## Recommendation 4

Settlement service providers to develop and provide **orientation sessions to new migrants on issues such as contracts and consumer law**, equipping clients with the particular skills and knowledge necessary to understand the Australian telecommunications context as a consumer.

## 6.2 Unaffordable Contracts

Clients who came to the BYB Day because they couldn't afford their contracts fell into two categories:

- Clients who entered into a contract but, due to a change in circumstances, were no longer available to service the contract; and
- Clients who were not able to afford the contract from the outset.

A strong theme that emerged from the BYB clients was financial hardship and inability to pay for unexpected charges. All BYB mobile phone clients were asylum seekers<sup>40</sup> who were not employed at the time they entered into the contract. In many cases clients received either a very small amount or no government financial assistance at all.

Upon falling into difficulty in meeting their financial obligations under their contracts, clients had often made contact with the service providers either personally or via their caseworkers, in an attempt to assuage the impact of the bills they could not afford. In some cases although payment plans were offered, they were set at an amount still far too high for the client to realistically afford. In one case, although the client advised the provider of a realistic amount for a payment plan, that amount was rejected by the provider.

Under the TCP Code, all carriage service providers must have a financial hardship policy which is 'easy for Consumers to find and access' and includes a summary of financial hardship options and how assessment will be made (TCP 6.11). There are also a number of requirements on the part of the carriage service provider towards those consumers experiencing financial hardship, including fair and timely financial hardship assessment (TCP 6.12), and communication to the client of financial hardship arrangements (TCP 6.13).

In March 2014, the TIO and consumer and industry representatives developed a set of financial hardship guidelines to provide direction to telecommunications companies about how to better respond to consumers suffering financial hardship.<sup>41</sup> This document is clearly a gesture of good will by some parts of the telecommunications industry, and is a helpful step towards determining what industry practice ought to be. It is noted however that not all telecommunications service providers participated in the development of the guidelines; Vodafone for example was notably absent.<sup>42</sup>

---

<sup>40</sup> One of the clients whose matter is a case study has subsequently received a protection visa, however he was an asylum seeker when he approached MOSAIC for assistance at the BYB event.

<sup>41</sup> *Responding to customers in financial hardship: Principles and practices for telecommunications providers*, March 2014

<sup>42</sup> *Ibid*, see Attachment B

Furthermore, the document was intended as a ‘best practice’ guide only; while providers are “encouraged to review the document to consider how relevant principles and practices can be adopted in their own businesses”<sup>43</sup>, it is not binding upon them.

Despite the above measures therefore, it is apparent from the experiences of the BYB clients that there is still inconsistency across the industry as to what relief is available to consumers who are experiencing financial hardship, and when and how such relief is extended.

### Recommendation 5

Telecommunications industry to **create standardised internal processes relating to treatment of debt and financial hardship** to ensure consistency of outcomes for clients and suitability of payment plans for clients’ individual financial situations.

## 6.3 Sales Practices with Vulnerable Clients

It is clear from the stories of BYB clients that in attempting to induce new customers to enter contracts, telecommunications companies are engaging in problematic sales practices. Sections 20 and 21 of the Australian Consumer Law prohibit unconscionable conduct in the supply of goods and services.<sup>44</sup>

Unconscionable conduct is defined by reference to Australian case law as conduct which is particularly harsh or oppressive and substantially more than just hard commercial bargaining. It requires that one party have a special disability which another party takes unfair advantage of, either knowingly or recklessly. In a decision relating to unconscionable conduct, the Court may consider matters such as unequal bargaining power of the parties, whether a customer was able to understand the terms of any service contract, and the requirements of any applicable industry code.<sup>45</sup>

It is concerning that evidence of unconscionable conduct has arisen in MOSAIC casework and BYB mobile phone matters. Two BYB clients clearly stated that, although they presented with minimal English language ability and received no explanation of the contract, they were directed to “just sign”. Saadiq, for example, was directed to fraudulently record that he was employed.

Clients who attended the BYB Day had been through some form of credit check before entering into a post-paid mobile phone contract, but there was little consistency in the processes followed by different providers. For example, when entering a 24 month contract, Nabil\* was never asked to provide any bank statements or evidence of his residency status, as this did not form part of the provider’s credit check process. Similar issues have arisen in cases where clients have sought plan upgrades. In Saadiq’s case his phone upgrade was allowed in spite of several outstanding fees and his consistent inability to afford the contract.

---

<sup>43</sup> Ibid, p. 5

<sup>44</sup> *Competition and Consumer Act 2010* (Cth) Sch 2 Australian Consumer Law ss 20, 21.

<sup>45</sup> *Competition and Consumer Act 2010* (Cth) Sch 2 Australian Consumer Law s 22.

As the literature on this issue emphasises, “mobile phones can be a vital means for recently arrived refugees to stay in contact with family and friends overseas, find out about news and events, overcome language barriers and to build support networks in Australia. As such mobile connectivity is a key enabler in the settlement process.”<sup>46</sup> It is important to bear this in mind when arguing for changes to industry practice that might restrict a new migrant’s ability to access telecommunications services. Nonetheless, the BYB clients’ experiences demonstrate that taking on an unaffordable contract can also be a source of great stress to consumers, and can lead to even greater hardship. Lack of savings or lack of a steady income should not be a complete barrier to a consumer being able to access any telecommunications service product. However, evidence of such financial hardship should be an indicator to sales staff that not all products will be suitable for a person in this financial position, and should limit the options available to the consumer to products that are affordable and within their means, such as, for example, pre-paid phone packages.

### Recommendation 6

The TCP Code should be amended to include **uniform credit check standards** for the telecommunication industry similar to the standards adopted in the financial industry for responsible lending,<sup>47</sup> including obligations for carriage service providers to **make reasonable inquiries to ascertain and verify the customer’s financial situation** prior to their entering into a contract, including their capacity to service the contract and the suitability of the product being provided.

## 6.4 Mixed Dispute Resolution Responses

Finally, both in relation to BYB clients and more generally in MOSAIC matters, MOSAIC lawyers frequently experience inconsistent dispute resolution outcomes when dealing with telecommunications companies.

Prior to the BYB Day, MOSAIC often experienced difficulties entering initial negotiations with telecommunication industry representatives, which meant that the lawyer had to escalate to a TIO complaint before the provider would negotiate with them as the client’s representative. In MOSAIC’s experience, many companies have refused to liaise with our lawyers without a TIO Complaint Authority. The TIO complaint would serve to convey MOSAIC’s authority as the client’s representative, as well as prompting escalation of the matter within the service provider. Nonetheless, even where a TIO complaint is made there have been varied and inconsistent responses to client matters, with outcomes being highly dependent on the discretion of the individual decision-maker within the service provider to whom TIO has referred the complaint back.

Since the BYB Day MOSAIC has had greater success in negotiating with telecommunication companies (primarily Vodafone), as a result of having been permitted access to an authorised direct

---

<sup>46</sup> Dinesh Wadiwel and Carrie Hayter, *Communicating Difference: Understanding Communications Consumers from Non English Speaking Backgrounds*, Research Report, National Ethnic Disability Alliance and Australian Communications Consumer Network, 2010, p. 10.

<sup>47</sup> See *National Consumer Credit Protection Act 2009* (Cth) ss 115–9

contact within the company who can make decisions relating to financial hardship and clearing bad debts. Liaising with a single contact has also meant greater consistency in client outcomes, and has resulted in significant decrease in MOSAIC making complaints to the TIO.

### **Recommendation 7**

Consumer representative organisations and the community legal sector to work with telecommunication companies to identify **clear internal dispute resolution processes and practices**, including the development of a standard Authority form authorising a third party to act on a consumer's behalf, to ensure consistency in client dispute resolution outcomes.

## 7. Conclusion

---

Due to decisions about its location and operation, the recent BYB day held by MOSAIC in Sydney CBD did not attract the numbers of clients seeking individual assistance in relation to mobile phone bills that it had anticipated. Nonetheless, the experiences of those clients who did attend seeking advice about mobile phone contracts in Australia are consistent with those of other clients that MOSAIC has assisted through its casework over the last two years. As such these experiences can be regarded as broadly representative of the problems encountered by many new migrants to Australia when trying to engage with the telecommunications industry.

Consumer law in Australia and the existing TCP Code both include a number of safeguards that have been utilised with some success to protect and uphold consumers' rights in relation to mobile phone contracts. However, evidence shows that the existing framework is proving inadequate to protect the rights of certain groups, including newly-arrived migrants with a low level of English proficiency. Justice Connect's findings, based on the experiences of its clients at the recent BYB day and on evidence drawn from the casework of MOSAIC more broadly, are consistent with the existing literature referred to in Part 2 of this report. To guard against ongoing exploitation of this vulnerable consumer group, more needs to be done to safeguard consumer rights, by introducing a greater level of specificity in the telecommunications industry's self-regulatory code of conduct about communicating with non-English speaking customers, and by standardising processes across the industry to ensure greater consistency of practice. Consumer representative organisations and the community sector can play a constructive role in this process, by supporting telecommunications companies where appropriate through the provision of education, training and feedback about the impact of practices on consumers, and by maintaining an open and collaborative dialogue with the industry.

## 8. Bibliography

---

Agnieszka Kubal, 'Migrants' Relationship with Law in the Host Country: Exploring the Role of Legal Culture' (2013) 34(1) *Journal of Intercultural Studies* 55.

Annemaree Lloyd, Mary Anne Kennan, Kim M. Thompson and Asim Qayyum, 'Connecting with New Information Landscapes: Information Literacy Practices of Refugees' (2013) 69 *Journal of Documentation* 121.

Australian Bureau of Statistics, Australian Social Trends (2014) <<http://www.abs.gov.au/ausstats/abs@.nsf/Lookup/4102.0main+features102014>>.

*Competition and Consumer Act 2010* (Cth) Sch 2 Australian Consumer Law.

Dinesh Wadiwel and Carrie Hayter, 'Communicating Difference: Understanding Communications Consumers from Non English Speaking Backgrounds' (Research Report, National Ethnic Disability Alliance and Australian Communications Consumer Network, 2010).

Footscray Community Legal Centre Inc, "'Bring Your Bills Clinics" – Model of Service Delivery, Guidelines and Procedures', September 2011

Footscray Community Legal Centre, 'Taking Advantage of Disadvantage: Case Studies of Refugee and New Migrant Experiences in the Communications Market' (Research Report, Footscray Community Legal Centre and Australian Communications Consumer Network, 23 March 2011).

Jeremy Hein and Randall R. Berger, 'Legal Adaption of Vietnamese Refugees in the United States: How International Migrants Litigate Civil Grievances during the Resettlement Process' (2001) 35(2) *International Migration Review* 420.

Judith Stubbs, Thomas Storer, John Storer, Eliza de Vet and Collen Lux, 'Planning for Legal Needs: Legal Needs Assessment Framework' (Summary Report, Judith Stubbs & Associates, May 2010).

Laura Berta, Gerard Brody, Cynthia Mackenzie, 2013, 'Strangers are calling! The experience of door to door sales in Melbourne's refugee communities', Footscray Community Legal Centre

Linda Leung, Cath Finney Lamb and Liz Emrys, 'Technology's Refuge: The Use of Technology by Asylum Seekers and Refugees' (UTS Shopfront Monograph Series No 5, UTSePress, Sydney, 2009).

*National Consumer Credit Protection Act 2009* (Cth).

Paul Atkinson, Sara Delamont and Amanda Coffey, *Key Themes in Qualitative Research: Continuities and Changes* (Altamira Press, 2003).

*Telecommunications (Consumer Protection and Service Standards) Act 1999* (Cth).



