

National Human Rights Action Plan Secretariat
Human Rights Policy Branch
Attorney-General's Department

By email: nhrap@ag.gov.au

9 September 2011

Dear Sir/Madam,

Response to Human Rights Baseline Study

1. About ACCAN

The Australian Communications Consumer Action Network (ACCAN) is the peak body that represents all consumers on communications issues including telecommunications, broadband and emerging new services. ACCAN provides a strong unified voice to industry and government as consumers work towards availability, accessibility and affordability of communications services for all Australians.

Consumers need ACCAN to promote better consumer protection outcomes ensuring speedy responses to complaints and issues. ACCAN aims to empower consumers so that they are well informed and can make good choices about products and services. As a peak body, ACCAN activates its broad and diverse membership base to campaign to get a better deal for all communications consumers. ACCAN currently has 175 member groups and individuals supporting the work that we do.

2. Introductory comments

ACCAN welcomes the release of the Draft Human Rights Baseline Study and the Government's commitment to incorporate Australia's Universal Periodic Recommendations into the National Human Rights Action Plan.¹ We thank you for the opportunity to provide comments to this Draft Human Rights Baseline Study.

We commend the Government for their constructive dialogue and engagement with the Australian Human Rights Commission and non-government organisations throughout the

¹ Hon Robert McClelland MP, *Address to the NGO Forum on Human Rights*, Canberra, 22 June 2011 accessed on 26 August 2011 at:

http://www.ag.gov.au/www/ministers/mcclelland.nsf/Page/Speeches_2011_SecondQuarter_22June2011-AddresstotheNon-GovernmentOrganisationsForumonHumanRights

Universal Periodic Review ('UPR') process to date and we hope this constructive dialogue continues through the implementation stages.

ACCAN also strongly encourages the Government to ensure the National Human Rights Action Plan contains specific, measurable and achievable goals with clear timelines in which to achieve practical actions.

ACCAN is committed to working within a human rights framework and believes that human rights are universal, inalienable and indivisible. Our submission will specifically focus on social inclusion in the area of Information Communication Technology (ICT).

While noting the importance of the social inclusion indicators currently included in the Baseline Study, ACCAN is disappointed that issues relating to availability, accessibility and affordability of ICT are not adequately addressed.

In particular, we refer to our earlier submission to the Attorney General's Department, 'Response to Australia's Universal Periodic Review - Consultation on Recommendations' made on 5 April 2011 which outlined some of ACCAN's concerns relating to social inclusion in the context of ICT. This included that the NBN must be ubiquitous, accessible and affordable for all. Another issue of concern is that people without a landline are unable to access the 'free' and local call phone rates that are applied to 1800, 13 and 1300 numbers used as the primary means of contacting government, charities and essential services.²

Please let ACCAN know if you require another copy of this submission.

Since that time, on 16 May 2011, the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression presented a report to the United Nations Human Rights Council that explored how the internet, as an Information and Communications Technology (ICT) tool, enables individuals to exercise the right to freedom of expression and opinion as well as a range of other rights.³

The Special Rapporteur noted:

Given that the Internet has become an indispensable tool for realising a range of human rights, combating inequality, and accelerating development and human progress, ensuring universal access to the Internet should be a priority for all States. Each State should thus develop a concrete and effective policy, in consultation with individuals from all sections of society, including the private sector and relevant Government ministries, to make the Internet widely available, accessible and affordable to all segments of population.⁴

² For further information about this issue please see: Australian Communications Consumer Action Network, Numbering Consultation Paper 4 Submission, July 2011, accessed on 24 August 2011 at: http://www.acma.gov.au/webwr/_assets/main/lib312144/ifc15-2011_accan.pdf

³ Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Presented to the seventeenth session of the Human Rights Council 16 May 2011, A/HRC/17/27, Accessed 1 July 2011: http://www2.ohchr.org/english/bodies/hrcouncil/docs/17session/A.HRC.17.27_en.pdf

⁴ Report of the Special Rapporteur, Note 3 at paragraph 85.

Based on the findings of this report and other research discussed below, ACCAN is strongly of the view that measures of availability, accessibility and affordability of ICT must be included within the social inclusion measures of the Human Rights Baseline Study. Any barriers to using ICT must also be identified. This is also discussed below.

3. What social inclusion in the context of ICT means for ACCAN

In the Concluding Observations of the Committee on Economic, Social and Cultural Rights ('The Committee') on Australia made in June 2009, the Committee urged Australia:

*to take all necessary measures to combat poverty and social exclusion, and to develop a comprehensive poverty reduction and social inclusion strategy which should integrate the economic, social and cultural rights.*⁵

The Committee further referred Australia to an earlier statement on Poverty. This statement defines poverty as a:

*lack of basic capabilities to live in dignity ... a human condition characterised by sustained or chronic deprivation of the resources, capabilities, choices, security and power necessary for the enjoyment of an adequate standard of living and other civil, cultural, economic, political and social rights.*⁶

ACCAN submits that available, accessible and affordable communications is an important element of an adequate standard of living and social inclusion.

This is further supported by Peter Phillips, from the regulator, Ofcom, UK who states:

*Children without the internet at home are increasingly hampered in their education. The elderly and poor without the internet increasingly have to pay higher prices which strain limited budgets. Adults without the internet increasingly shut out from looking for work. The internet is also particularly valued by many disabled users, who may find online shopping or banking more accessible than using the high street. The list goes on.*⁷

The Australian Labor Party's pre 2007 election social inclusion agenda, which the Government has continued to draw upon, states:

that to be socially included, all Australians must be given the opportunity to:

- secure a job;
- access services;

⁵ Committee on Economic, Social and Cultural Rights, *Concluding Observations of the Committee on Economic, Social and Cultural Rights, Australia*, E/C.12/AUS/CO/4 (2009) at paragraph 24 accessed on 29 August 2011 at: <http://daccess-ods.un.org/TMP/6283687.9491806.html>

⁶ Committee on Economic, Social and Cultural Rights, *Substantive Issues Arising in the Implementation of the International Covenant on Economic, Social and Cultural Rights: Poverty and the International Covenant on Economic, Social and Cultural Rights*, E/C.12/2001/10, Annex VII at paragraph 7-8. 10 May 2001, accessed on 29 August 2011 at:

<http://www2.ohchr.org/english/bodies/cescr/docs/statements/E.C.12.2001.10Poverty-2001.pdf>

⁷ Peter Phillips cited in ACCAN, *Our Broadband Future: What Consumers Want*, ACCAN, Sydney, June 2010 at 3 accessed on 29 August 2011 at:

http://www.accan.org.au/campaign_full.php?id=14&PHPSESSID=67728f324ee2d9fe69a1b60ea5809312

- connect with others in life through family, friends, work, personal interests and local community;
- deal with personal crisis such as ill health, bereavement or the loss of a job; and
- have their voice heard.⁸

Being socially included from ACCAN members' perspective means, for example: being able to access e-health and online educational opportunities even from very remote areas; Aboriginal and Torres Strait Islander persons living in small remote communities having access to home internet and technical support;⁹ people from culturally and linguistically diverse (CALD) backgrounds being able to engage with their communities through technology no matter where they live;¹⁰ having persons with disability top of mind when designing and implementing new technologies; providing persons with disabilities greater opportunities to participate in society, for example, through employment opportunities due to advances in ICT;¹¹ ensuring people who live on their own, including older persons who may otherwise be isolated, are connected to their community;¹² responding to the need of homeless youth to access the internet for support and advice;¹³ having stronger consumer protections in place to limit customers experiencing bill shock when they receive their communication bills as a result of confusing and misleading advertising and poor credit management tools, which in turn can have an impact on their ability to stay connected to friends, family and access government and other services.¹⁴

⁸ See for example, The Hon Julia Gillard MP, Minister for Social Inclusion, speech *Social Innovation, Social Impact: A new Australian Agenda*, Sydney, 28 February 2008
<http://mediacentre.dewr.gov.au/mediacentre/Gillard/Releases/SocialInnovationSocialImpactAnewAustralianAgenda.htm>

⁹ See, for example, ARC Centre of Excellence for Creative Industries and Innovation, the Centre of Appropriate Technology & the Central Land Council, *Home Internet for Remote Indigenous Communities*, ACCAN & ARC ARC Centre of Excellence for Creative Industries, 2011 accessed on 24 August 2011 at: http://accan.org.au/index.php?option=com_content&view=article&id=345:home-internet-for-remote-indigenous-communities&catid=96:broadband&Itemid=208

¹⁰ See for example, National Ethnic Disability Alliance and Australian Communications Consumer Action Network, *Communicating Difference: Understanding Communications Consumers from Non English Speaking Backgrounds*, ACCAN, Sydney, 2010 accessed on 24 August 2011 at: http://accan.org.au/index.php?option=com_content&view=article&id=94&Itemid=166

¹¹ See for example Elizabeth Lyle, *A Giant Leap and a Big Deal: Delivering on the Promise of Equal Access to Broadband for People With Disabilities*, Omnibus Broadband Initiative Working Paper Series No 2, Federal Communications Commission, April 2010, at 4 accessed on 24 August 2011 at: [http://download.broadband.gov.au/plan/fcc-omnibus-broadband-initiative-\(obi\)-working-report-giant-leap-big-deal-delivering-promise-of-equal-access-to-broadband-for-people-with-disabilities.pdf](http://download.broadband.gov.au/plan/fcc-omnibus-broadband-initiative-(obi)-working-report-giant-leap-big-deal-delivering-promise-of-equal-access-to-broadband-for-people-with-disabilities.pdf)

¹² Tim Williams, *Connecting Communities: The impact of broadband on communities in the UK and its implications for Australia*, Huawei Australia, Sydney, 2011 at 28-29 (32-33) accessed on 24 August 2011 at: http://www.huawei.com.au/connectingcommunities/docs/Huawei_CC_WhitePaper.pdf

¹³ A study by Mission Australia of young people aged between 11-24 years found that 40.7% of homeless young people access the internet for support and advice. See: Mission Australia, *The experiences of young people: How do their living arrangements impact?* Macquarie Group Foundation, 2009 at 4.

¹⁴ See, for example, the draft report by the telecommunications regulator, the Australian Communications Media Authority, released after a 12 month inquiry into customer care in the telecommunications sector. This report provides examples of the "social and financial damage" resulting from bill shock (at pages 56-58 (internet access pages 65-67) and proposed solutions, including banning of confusing terms; introduction of unit pricing; introduction of critical information statement provided before a sale; introduction of mandatory credit management tools with customer nominated limits (at pages 81 – 89; 95- 99 (internet pages 88- 97; 104-107) The Australian Communications Media Authority, *Reconnecting the Customer – Draft Report*, ACMA, Melbourne, June 2011 accessed on 24 August 2011 at: http://engage.acma.gov.au/reconnecting/wp-content/uploads/2011/06/RTC-Edited_Master-Version_Final_Web-edition1.pdf

Some key barriers to use of ICT include cost, digital literacy and whether a user sees the relevance of the new technology for themselves.¹⁵

Additionally, ACCAN is a strong advocate for a Government public procurement policy for accessible information and communications technology to ensure the Government's purchases of information and communications equipment and services are accessible and usable by people with disability. ACCAN believes the Government should be leading with best practice in this area. ACCAN has recently released its position statement on this and strongly recommends the issues raised be considered in the Draft Baseline Study and National Human Rights Action Plan.¹⁶

Below is an outline of further key studies ACCAN believes the Government should consider in the Human Rights Baseline Study and National Human Rights Action Plan relating to social inclusion in the area of ICT.

4. Previous studies and reports relating to social inclusion and ICT

i) *Regional Telecommunications Independent Review Committee Report: Framework for the Future*

In 2008 the Regional Telecommunications Independent Review Committee undertook a review of the adequacy of telecommunications services in regional, rural and remote Australia. In response to that review the Committee released a report entitled, *Framework for the Future*.

The report notes:

*Telecommunications services and associated skills are essential for social inclusion in modern society, as is the ability to access and use the latest technology developments.*¹⁷

Further,

*Telecommunications services are significant enablers of social inclusion allowing people in regional Australia to 'connect to others', provide 'access to services' and 'have their voices heard.'*¹⁸

¹⁵ For a discussion of this in the context of accessibility for persons with disability see: Elizabeth Lyle, *A Giant Leap and a Big Deal: Delivering on the Promise of Equal Access to Broadband for People With Disabilities*, Omnibus Broadband Initiative Working Paper Series No 2, Federal Communications Commission, April 2010 accessed on 24 August 2011 at: [http://download.broadband.gov.au/plan/fcc-omnibus-broadband-initiative-\(obi\)-working-report-giant-leap-big-deal-delivering-promise-of-equal-access-to-broadband-for-people-with-disabilities.pdf](http://download.broadband.gov.au/plan/fcc-omnibus-broadband-initiative-(obi)-working-report-giant-leap-big-deal-delivering-promise-of-equal-access-to-broadband-for-people-with-disabilities.pdf)

¹⁶ ACCAN, *Public Procurement Policy for Accessible Information and Communications Technology Position Statement*, Sydney, August 2011, accessed on 29 August 2011 at: http://accan.org.au/index.php?option=com_content&view=article&id=360:position-statement-ict-procurement&catid=80:broadband&Itemid=349

¹⁷ *Regional Telecommunications Independent Review Committee Report - Framework for the Future*, Australian Government, September 2008 at 15 (40) accessed on 24 August 2011 at: http://www.dbcde.gov.au/_data/assets/pdf_file/0004/137803/2008_Glasson_Report_RTIRC.pdf

¹⁸ *Ibid*, *Framework for the Future*, Note 17 at 16(41).

A number of the report's findings relate to social inclusion. Significantly, Finding 1.1.1 of the Report states:

*A sense of isolation is a significant issue for regional Australians. Access to appropriate telecommunications at reasonable prices presents opportunities to lessen the sense of isolation.*¹⁹

The report further notes the challenges for people with disabilities, including people from CALD backgrounds with disabilities in regional, rural and remote areas. The report refers to a submission by the National Ethnic Disability Alliance which states:

*Affordable and accessible telecommunications can keep community and cultural connections alive and reduce isolation.*²⁰

The report finds:

*People with special needs require access to new technologies at an appropriate price including the necessary support mechanisms to enhance their interaction with society.*²¹

The report also acknowledges the need for promoting and facilitating opportunities for people to develop their digital literacy.²²

The issue of digital literacy and digital inclusion has again been raised recently by Tim Williams in *Connecting Communities: The impact of broadband on communities in the UK and its implications for Australia*. Williams is a strong advocate for facilitating digital literacy, so as to prevent digital exclusion from compounding social exclusion.²³ Williams believes it is "access plus motivation, skills and confidence" that is required to promote digital inclusion, particularly "amongst those potential users and communities who are least likely to get online without intervention, support and encouragement."²⁴

Further, the Hon Stephen Conroy, Minister for Broadband, Communications and the Digital Economy recently said:

*It is not enough to just deliver access to the internet at home. It is also about ensuring access to high quality broadband-enabled services, and the skills and resources to maximise them.*²⁵

Tim Williams recommends the establishment of a National Digital Action Plan which includes targets for everyone to be digitally literate by 2021.²⁶

ACCAN proposes data be collected to measure digital literacy as outlined in the statistical data section below.

¹⁹ *Framework for the Future*, Note 17 at 19(44).

²⁰ National Ethnic Disability Alliance submission cited in *Framework for the Future*, Note 17 at 20(45).

²¹ *Framework for the Future*, Note 17 at 20(45).

²² *Framework for the Future*, Finding 1.1.4, Note 17 at 26(51).

²³ *Connecting Communities*, Note 12, 21- 22 (25-26).

²⁴ *Connecting Communities*, Note 12 at 22 (26).

²⁵ Hon Stephen Conroy, *Address to Huawei Digital Inclusion Summit*, Canberra, 17 August 2011 accessed on 24 August 2011 at: http://www.minister.dbcde.gov.au/media/speeches/2011_-_minister_speeches/022

²⁶ *Connecting Communities*, Note 12 at 62 (66)

ii) *Inclusive communications – ACCAN’s response to the National Disability Strategy*

In response to the release of the National Disability Strategy in 2010, ACCAN made a submission entitled *Inclusive Communications and the National Disability Strategy*²⁷. This response called for six actions and outlined areas for which statistical data should be collected.

A summary of the six actions is below and the suggestions for collection of statistical data in the statistical data section below.

- a) Improve access to preferred information and communication equipment that will enable people with disability to access voice, voice-equivalent or text-to-speech telephony services and the internet and National Broadband Network;
- b) Improve available, affordable and accessible communications services for people who are Deaf, or have a speech or hearing impairment to reflect new digital technologies available via the internet and provide access to emergency services via these service channels;
- c) Ensure all levels of government and publicly funded service providers deliver best practice in the accessibility of electronic, print, web and audio-visual communications;
- d) Promote universal design of information and communication equipment by incorporating accessibility criteria in all government procurement policies and publicly funded service provider contracts;
- e) Ensure people with disability have affordable and accessible internet, voice and government services delivered via the National Broadband Network
- f) Implement a transition plan to provide for universal audio description and captioned DVDs, Cinema, Online and television broadcast services of high quality, enforced by the Australian Communications and Media Authority

5. Statistical data ACCAN proposes should be collected

ACCAN proposes the following statistical data should be collected:

Availability:

1. Proportion of households connected to high speed broadband.

Accessibility:

2. How does each member of the household use the internet at home: education; e-health; contact government services; entertainment; staying connected with community, family and/or friends, other (specify);²⁸

²⁷ ACCAN, *Inclusive Communications and the National Disability Strategy*, 29 June 2010 accessed on 24 August 2011 at:

<http://accan.org.au/files/Campaigns/ACCAN%20Inclusive%20Communications%20Position%20Statement%20final.pdf>

²⁸ NB Tim Williams recommends establishing a formal national survey into current patterns of broadband use by individuals and diverse communities in *Connecting Communities*, Note 12 at 5(9).

3. What would help you use the internet more regularly and for different purposes as listed above? Purpose: to identify any barriers, eg digital literacy, accessibility issues for people with disabilities, relevance etc

Affordability:

4. Is the internet service you have purchased adequate for your needs?
5. In the last 12 months have you had any difficulty paying your communications bills? (Includes mobiles, landline, internet)

We further note in our *Inclusive Communications and the National Disability Strategy* ACCAN encouraged the National Disability Strategy to adopt the following performance indicators to support these actions:

- Increase in the proportion of people with a disability regularly using the internet;
- Increase in the proportion of people with a disability having their preferred accessible telephone service in their home and at their place of work; and
- Increase in the proportion of DVDs, Cinema, Online and television broadcasts with captioned and audio description services.

Statistical data should therefore also be collected in these areas.

6. Conclusion

Should you have any questions about this submission, please contact Liz Snell on ph (02) 9288 4000 or email: liz.snell@accan.org.au

We look forward to the opportunity to also comment on the Draft Human Rights Action Plan once it is released.

Yours faithfully,



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