ACCAN response to *Consumer vulnerability: expectations for the telecommunications industry*

Submission by the Australian Communications Consumer Action Network (ACCAN) to the Australian Communications and Media Authority

10 September 2021

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 communications services that are trusted, inclusive and available for all.

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 will represent the views of its broad and diverse membership base to policy makers, government and industry to get better outcomes for all communications consumers.

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Executive Summary

ACCAN thanks the Australian Communications and Media Authority (**ACMA**) for the opportunity to provide comments on its discussion paper *Consumer vulnerability: expectations for the telecommunications industry – Draft for consultation* (the Statement of Expectations, hereafter **SoE**).

ACCAN welcomes the ACMA's efforts to drive systemic change to improve the telco industry's approach to customers experiencing vulnerability. While we would like to see the SoE as an enforceable regulatory tool, we understand the structural and sectoral limitations within which the ACMA is operating in terms of introducing reforms between Telecommunications Consumer Protections Code (**TCP Code**) reviews, and in anticipation of the Australian Government's response to *Consumer Safeguards Review Part C: Choice and Fairness*.

As a matter of urgency and high priority, it is essential that the ACMA takes all avenues available to deliver stronger regulatory responses to any identified mismanagement of customer vulnerability by telcos. Furthermore, while it is understood that the SoE will not be an enforceable tool, the ACMA should use it as an opportunity to provide bold and ambitious best practice guidance for industry. The ACMA must also ensure that adoption of the SoE by telcos is transparent, measurable and auditable.

ACCAN's views have been developed through extensive consultation with ACCAN members, consumer advocates and consumer case studies. ACCAN's submission emphasises the following points:

- Telcos must treat all customers fairly, including those experiencing vulnerability.
- Broadly speaking, there is significant evidence that current telco responses to consumers experiencing vulnerability are inadequate in many instances, and that telcos are not currently incentivised to compete on improvements to customer service that ensure appropriate support for consumers experiencing vulnerability.
- The goals for industry expressed in the SoE are largely appropriate and cover all bases, except for areas such as dispute resolution and credit and debt management.
- The SoE needs more clarity, detail, examples and emphasis on aspirational outcomes to ensure it demonstrates what best practice encompasses.
- Every outcome expressed in the SoE should be measurable to ensure that telco adoption of the SoE can be monitored by the ACMA to inform and support its enforcement and regulatory activities.
- The SoE should offer more guidance regarding the proactive identification and provision of supports to consumers experiencing vulnerability.
- Guidance in relation to staff training should be complemented by performance monitoring and measurable improvements.
- There needs to be an emphasis on continuous improvement by telcos to ensure the sector keeps up with developments in other utility market practices and related sectors.
- Industry should regularly and publicly report on their performance against the goals and outcomes expressed in the SoE to increase transparency and in turn build consumer confidence.
- The development of the SoE does not negate the need for urgent structural reforms to telecommunications consumer protections.

List of recommendations

Recommendation 1:   That the SoE clearly articulates the need for not just system and process improvements, but also a deep cultural shift in the telecommunications sector.

Recommendation 2:   That the SoE's outcomes and examples are clarified with sufficient detail to provide practical guidance of best practice for industry.

Recommendation 3:   That each outcome expressed in the SoE is measurable to ensure that telcos' adoption of the SoE can be monitored by the ACMA.

Recommendation 4:   That the SoE outlines the need for telcos to publicly report their performances against SoE goals and outcomes, to increase transparency and build consumer confidence.

Recommendation 5:   That the SoE is amended to provide practical guidance on proactively identifying and responding to customer vulnerability.

Recommendation 6:   That staff training in the SoE is extended to incorporate monitoring of staff performance and rectifying deficiencies in customer service.

Recommendation 7:   That the SoE emphasise the need for industry to treat all customers fairly, and that by doing so, consumers are less likely to experience vulnerability and harm when accessing and maintaining communications services.

Recommendation 8:   That the SoE acknowledges the intersectional and often structural nature of vulnerability, and expands its list of factors contributing to vulnerability.

Recommendation 9:   That Priority Area 5 is expanded to include Credit and Debt Management, and that the SoE recommends credit and debt management processes that are fair, accurate, flexible, and proportionate.

1. General comments

1.1. Telcos should treat all consumers fairly

Companies that sell phone and internet products and services should treat all their customers fairly. To do this, they need to offer tailored support to customers experiencing vulnerability or disadvantage, as well as to those who are at risk of harm or have difficulty accessing services due to personal, demographic, or structural factors. Treating customers fairly also includes designing, selling, and delivering products and services in a way that is equitable and provides good value to customers.

Apart from the obvious benefit of customer retention, treating customers fairly is important for many reasons including:

- **Telecommunications are essential services**. As the SoE indicates,[1] there is consensus between government and consumers that telecommunications services are an essential utility.[2] Communications services allow consumers to access emergency services, healthcare, employment, and education, as well as participate socially and in civic society. The COVID-19 environment has exponentially increased Australians' heavy reliance on communications services.[3]
- **Fairness makes good commercial sense**. The broader economic benefits of keeping consumers connected are well documented and cannot be overstated.[4] Additionally, fair dealings between telcos and consumers can lead to customer satisfaction and loyalty. Investing in customer service and proactive, early responses to vulnerability keeps customers connected and leads to more efficient dispute resolution and debt management.[5]
- **Consumers expect fairness**. Increased consumer protections and improvements in customer service in other sectors (for example, banking and online retail) mean that consumers expect fair and proper dealings with service providers.
- **Anyone can experience adversity**. It is broadly recognised that 'vulnerable people' do not make up a distinct, homogenous and static subset of consumers; any person can become vulnerable for a broad range of reasons as explained in the SoE.[6] In fact, consumers may not identify themselves as vulnerable, or may not realise they are experiencing vulnerability for a variety of reasons. Consequently, markets should be inclusively designed in anticipation of

[1] ACMA 2021, Consumer vulnerability: expectations for the telecommunications industry – draft for consultation, p. 3, https://www.acma.gov.au/sites/default/files/2021-07/Consumer%20vulnerability_consultation%20paper.pdf

[2] ACCAN 2020, *ACCAN response to Consumer Safeguards Review Part C / Choice and Fairness*, https://accan.org.au/files/Submissions/2020/ACCAN%20Submission%20to%20Consumer%20Safeguards%20Review%20Part%20C%20V.1.1.pdf

[3] Australian Broadband Advisory Council 2020, *Riding the Digital Wave: Report on COVID-19 Trends and Forward Work Program*, https://www.communications.gov.au/what-we-do/internet/australian-broadband-advisory-council-reports

[4] Deloitte Access Economics 2015, *Digital Government Transformation*, https://www2.deloitte.com/content/dam/Deloitte/au/Documents/Economics/deloitte-au-economics-digital-governmenttransformation-230715.pdf

[5] The Energy Charter 2019, *The Energy Charter*, https://www.theenergycharter.com.au/wp-content/uploads/2019/04/TheCharter_20190328.pdf

[6] George, M, Graham, C & Lennard, L 2016, *Consumer Vulnerability – Mainstream, not Marginal*, Centre for Consumers and Essential Services, Centre for Consumer and Essential Services, https://leicester.figshare.com/ndownloader/files/18253028

vulnerability, by ensuring all aspects of service providers' business practices and processes are fair.

1.2. Telcos should do better when supporting consumers experiencing vulnerability

The SoE outlines a variety of areas in which the telco market has in many cases failed to deliver adequate protections for people experiencing vulnerability, including accessing financial hardship supports, customer service, and selling practices.[7]

Anecdotally and as expressed through consistently high Telecommunications Industry Ombudsman (**TIO**) complaints statistics, many consumers are frustrated and fatigued from difficulties dealing with telecommunications providers.[8] Indeed, the same can be said for many consumer advocates and community organisations that deal with telco problems.

There is clearly a need for a broad culture shift in the telecommunications sector in terms of how telcos identify and respond to vulnerability.[9] The case for reform is well-documented in recent TIO systemic issues publications and the ACMA's 2019-20 Financial Hardship State of Play report. Both of these reports identify current trends where the supports offered by telcos to consumers experiencing vulnerability are not suitable in many instances.[10] [11] [12]

All telcos selling retail products and services must recognise their status as essential service providers, and should listen to consumers when they articulate their needs.

> **Recommendation 1:** That the SoE clearly articulates the need for not just system and process improvements, but also a deep cultural shift in the telecommunications sector.

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[7] ACMA 2021 op cit., pp. 9-11.

[8] Telecommunications Industry Ombudsman 2020, *TIO Annual Report 2019-2020*, https://www.tio.com.au/sites/default/files/2020-09/TIO%20AR2019-20_High-Res.pdf

[9] More detail telecommunications market failure can be found in ACCAN's submission to Consumer Safeguards Review Part C / Choice and Fairness.

ACCAN 2020, ACCAN 2020, *ACCAN response to Consumer Safeguards Review Part C / Choice and Fairness*, https://accan.org.au/files/Submissions/2020/ACCAN%20Submission%20to%20Consumer%20Safeguards%20Review%20Part%20C%20V.1.1.pdf

[10] Telecommunications Industry Ombudsman 2021, *Responding to Consumers in Financial Hardship Systemic Investigation Report, September 2021*, https://www.tio.com.au/sites/default/files/2021-08/TIO_Systemic_Report_Responding%20to%20Consumers%20in%20Financial%20Hardship_fa_HiRes%20%28f1%29.pdf

[11] Telecommunications Industry Ombudsman 2021, *Helping telco consumers sign up to the right phone and internet products*, https://www.tio.com.au/sites/default/files/2021-05/TIO%20Systemic%20Report_Helping%20Telco%20Consumers%20sign%20up%20to%20the%20right_fa_HiRes.pdf

[12] Australian Communications and Media Authority 2021, *Customer Financial Hardship in the Telco Industry: State of Play report 2019–20*, https://www.acma.gov.au/publications/2021-02/report/customer-financial-hardship-telco-industry-state-play-report-2019-20

1.3.   The SoE's outcomes and examples need more clarity and detail, and adoption of the SoE should be monitored

Overall, the SoE's priority areas and goals are sound and well-designed, and adequately reflect the complexity and needs of consumers experiencing vulnerability.

However, there should be more clarity and detail about what 'better practice' should look like for telcos supporting consumers experiencing vulnerability. The ACMA needs to incorporate clear guidance and concrete practical examples, like those outlined in the UK telecommunications regulator Ofcom's *Treating Vulnerable Customers Fairly* guide.[13] Ambiguous language and minimal detail about outcomes and examples leaves the SoE open to interpretation, limiting its effectiveness. Section 2 of ACCAN's submission below provides recommendations to improve the clarity and expression in the SoE.

> **Recommendation 2:**   That the SoE's outcomes and examples are clarified with sufficient detail to provide practical guidance of best practice for industry.

Additionally, ACCAN understands the ACMA intends to monitor the extent to which the SoE is adopted by the telco industry to inform its regulatory activities. ACCAN strongly supports this objective. To enable this, it is essential that each outcome expressed in the SoE is auditable. The telco industry's adoption of the SoE can only be measured if outcomes are clearly identified and the extent to which they are met can be assessed.

> **Recommendation 3:**   That each outcome expressed in the SoE is measurable to ensure that telcos' adoption of the SoE can be monitored by the ACMA.

By ensuring the outcomes of the SoE are easily measurable and auditable, industry members would be able to publicly demonstrate the extent to which they have adopted the SoE and whether their practices are improving over time. This transparency will allow consumers to make more informed decisions when choosing a provider. As such, the SoE should stress that telcos should publicly report on the extent to which they meet its outcomes, to increase transparency and enhance consumer confidence.

> **Recommendation 4:**   That the SoE outlines the need for telcos to publicly report their performance against SoE goals and outcomes, to increase transparency and build consumer confidence.

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[13] Ofcom 2020, *Treating Vulnerable Customers Fairly: A guide for phone, broadband and pay-TV providers*, https://www.ofcom.org.uk/__data/assets/pdf_file/0034/198763/treating-vulnerable-customer-fairly-guide.pdf

1.4. The SoE should emphasise proactive support, performance monitoring and improvement

There is consensus that the most effective way to respond to customer vulnerability is through early identification and proactive provision of support.[14] [15] The SoE places some emphasis on consumers' self-identification of vulnerability, particularly in Priority Area 3: Customer Service. This may be appropriate for some consumers, but not all, especially those experiencing payment difficulty, those with cognitive disability, or those for whom English is an additional language. In fact, the SoE contains very little guidance about how providers can practically and proactively identify vulnerability.

Providers should be encouraged to develop systems that proactively and where appropriate with assistance from automation software help identify consumers who could be experiencing vulnerability; for example, by contacting customers who frequently miss payments and offering assistance. Our feedback on Priority Area 3 on page 15 offers further recommendations to this end.

> **Recommendation 5:** That the SoE is amended to provide practical guidance on proactively identifying and responding to customer vulnerability.

The SoE strongly emphasises staff training as a mechanism through which telcos can better support and respond to consumers. In ACCAN's view, this staff training must be accompanied by an emphasis on monitoring and auditing staff interactions, evaluating performance against that training, and making continuous improvements to staff training where deficiencies are identified. Frontline customer service staff are not social workers and cannot be expected to be social policy experts; instead, telcos must ensure they have systems in place to train, monitor, and improve staff performance. Feedback in Section 2 will provide more detailed recommendations on this topic.

> **Recommendation 6:** That staff training in the SoE is extended to incorporate monitoring of staff performance and rectifying deficiencies in customer service.

1.5. Telco consumer protection rules need to be reviewed and improved

It is crucial to recognise that the SoE cannot replace the need for an urgent and sweeping review of telecommunications consumer protections rules. The TCP Code is the co-regulatory instrument that the SoE is intended to expand upon. This code is developed by the industry after consultation with consumer representatives, the ACCC, the OAIC, the TIO and the ACMA. Ultimately it sets out minimum measures the industry is prepared to adopt. It has not been developed with fairness and inclusivity at

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[14] The Energy Charter 2019, op. cit.

[15] O'Neill, E 2020, *Exploring Regulatory Approaches to Consumer Vulnerability: A Report for the Australian Energy Regulator*, Consumer Policy Research Centre, https://www.aer.gov.au/system/files/CPRC%20-%20Exploring%20regulatory%20approaches%20to%20consumer%20vulnerability%20-%20A%20report%20for%20the%20AER%20-%20February%202020_0.pdf

its centre. This is in stark contrast to aspects of consumer protections in other sectors, for example, the Victorian Essential Services Commission's *Payment Difficulty Framework*.[16]

ACCAN routinely receives feedback from consumers and members representing people experiencing vulnerability that dealing with telcos about disputes and problems can be highly variable. Some providers are fairer, more flexible and more receptive to consumers' needs than others. This lack of consistency is a concern in ACCAN's view. A customer experiencing vulnerability should experience the same level of support regardless of which telco they are receiving services from.

The need for an SoE implies that under existing arrangements, telcos are not incentivised to compete on improvements in this area, and there is significant consumer harm as a consequence. For this reason, it has been ACCAN's view for some time that a more fit for purpose regulatory instrument than a registered industry code is needed to address this imbalance. In the long term, an Industry Standard complimented by this SoE would provide the consumer safeguards required to protect consumers experiencing vulnerability.

ACCAN understands that the SoE is intended to build momentum for sector-wide improvements to telco responses to customer vulnerability. However, reports from agencies supporting consumers in hardship reported that the Australian Government's COVID-19 Statement of Expectations for Telecommunications Providers had limited success and negligible impact on consumer experiences. As such, ACCAN is concerned that the ACMA's SoE will have a low adoption rate. To ensure this is not the case, ACCAN strongly recommends that the ACMA monitors the adoption and impact of the SoE on a regular on-going basis.[17]

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[16] Essential Services Commission 2017, *Payment Difficulty Framework: Final Decision*, https://www.esc.vic.gov.au/sites/default/files/documents/payment-difficulty-framework-final-decision-20171009.pdf

[17] ACCAN 2021, *COVID-19 telco principles fail to adequately protect telco consumers: ACCAN*, media release, https://accan.org.au/media-centre/media-releases/1891-covid-19-telco-principles-fail-to-adequately-protect-telco-consumers-accan

2. Issues for comment

2.1. Identifying consumers in vulnerable circumstances

Question 1. The ACMA proposes that when identifying consumers who may be vulnerable, telcos should consider consumer vulnerability in terms of the circumstances that create risks of harm, detriment or disadvantage in consumers' interactions with the telecommunications market. Do you agree with this approach? If not, please explain and provide alternative thinking.

Focus on fairness

ACCAN supports the ACMA's characterisation of vulnerability as a set of circumstances that impact a consumer's ability to interact with the telecommunications market, and procure and maintain access to communications services. ACCAN considers use of the terms 'vulnerability' and 'consumers experiencing vulnerability' appropriate when engaging with industry about how to support customers.

However, for public facing communications and in its SoE, ACCAN encourages the ACMA to emphasise the concept of fairness. ACCAN's consultation with agencies that support consumers experiencing vulnerability highlighted that many in this cohort would not identify with this label or refer to themselves as being "vulnerable". The SoE needs to reflect this reality. As a result, there must be an even stronger emphasis on identifying indicators as customer-facing staff listen to a customer's requirements and enquiries.

In addition, an approach that highlights the 'deficiencies' and disadvantages of consumers experiencing vulnerability – without considering the importance of telcos consistently treating all customers fairly – overlooks the connection between market conditions and how these can produce and exacerbate vulnerability. The complexity and intersectionality of vulnerability factors, the way in which consumers' circumstances change rapidly, and the demonstrated inability of many telcos to appropriately respond to vulnerability means that this deficit-based approach is not adequate.

Emphasising fairness for all customers through the provision of proactive supports, through active listening by customer service staff and clear and trustworthy communications, and through good value and reasonable products, services and dealings is the better practice approach that the telecommunications industry should adopt.

> **Recommendation 7:** That the SoE emphasises the need for industry to treat all customers fairly, and that by doing so, consumers are less likely to experience vulnerability and harm when accessing and maintaining communications services.

Intersectionality and additional vulnerability factors

The SoE should explain that often factors contributing to vulnerability are intersectional, and structural in nature. For example, a person that speaks a primary language other than English is not vulnerable *because* they speak a primary language other than English; it is because the telecommunications market is not structured to facilitate access to interpreters or language support when required. Additionally, a person who is experiencing a variety of vulnerability factors may be at

further risk of harm and telcos must be aware that these intersecting factors may influence a consumer's interactions with them.

ACCAN recommends adding additional personal and social characteristics to the list of vulnerability factors on page 8 of the SoE:

- Serious or life-threatening medical condition, Precarious work or highly variable income,
- Owning and operating a small business turning a minimal profit, or operating at a loss,
- Coming from a *regional* or remote area,[18] and
- Living in a natural disaster-prone area.

> **Recommendation 8:** That the SoE acknowledges the intersectional and often structural nature of vulnerability, and expands its list of factors contributing to vulnerability.

2.2. Setting expectations for telcos – priority areas

Question 2. Are the ACMA's 5 proposed priority areas appropriate? Are there any other priority areas that should be substituted or included?

Credit and debt management

ACCAN strongly recommends that *Priority Area 5: Disconnection* is amended to become *Credit and Debt Management.* This is because disconnection is not the only area of concern in relation to telco providers' credit management. Other areas of concern include:

- **Dealing with debt collectors**: Some telcos do not keep good records of communications or disputes related to debts that have been sold. ACCAN is aware that in some instances, telcos can take up to 6 months to provide debt collectors with relevant documentation.
- **Selling debts**: ACCAN is aware of consumer case studies where telcos have sold debts of extremely low amounts or where it is clear the amount will not be recovered, and where a debt has been pursued by multiple debt collectors.
- **Billing processes**: Some providers' billing systems shut consumers out of their accounts the moment their service is cancelled. ACCAN is aware of case studies where consumers have been unable to access a final bill for a disconnected service, and the debt has been sold and pursued by a debt collector.
- **Lack of flexibility and options**: A telco can suspend, restrict or disconnect a service as a part of credit and debt management. In many cases, consumers are not aware of their credit management options, or are not empowered to negotiate or suggest options. Some may not have even been given an option for a payment plan or one that is within their means.
- **Credit reporting**: Even where financial hardship has been established, debt waivers have been offered, or mis-selling or other poor provider conduct has been established, many providers will proceed to report defaults to a credit reporting body.

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[18] Many regional areas have less choice and competition in the telecommunications products and services available, meaning that they are often less affordable. Regional consumers may also need to purchase additional services for redundancy or reliability reasons.

Under best practice, telcos should not unilaterally impose unfair credit and debt management measures on customers experiencing vulnerability. Telcos should ensure that their credit and debt management processes are fair, accurate, consultative, and proportionate to the amount owed and the consumer's circumstance.

> **Recommendation 9:** That Priority Area 5 is expanded to include Credit and Debt Management, and that the SoE recommends credit and debt management processes that are fair, accurate, flexible, and proportionate.

Dispute resolution

ACCAN recommends the addition of a sixth priority area: *Dispute Resolution*. While the ACMA Complaints Handling Standard 2018 contains telcos' internal dispute resolution obligations, the SoE is a good opportunity for providers to build upon their minimum regulatory obligations and ensure internal dispute resolution processes are accessible and timely for all. Outcomes and examples for a dispute resolution priority area could include:

- Ensuring that an adequately staffed customer service phoneline is available during business hours at a minimum.
- Acknowledging and resolving complaints earlier than the timeframes expressed in the Complaints Handling Standard.
- Adequately resourcing customer service teams and limiting customer service wait times.
- Ensuring that dispute resolution is not unreasonably conditional, such as requiring a consumer to send a device back to the telco prior to a debt being waived.
- Not reporting to a credit reporting agency any debts for which a waiver is provided as a result of a dispute.
- Not barring consumers experiencing vulnerability who have been subject to credit and debt management from contracting services from the provider at a later date.

Questions 3. Are the outcomes set out under each priority area appropriate? Are there any additional outcomes that should be specified?

Question 4. Are the examples provided in the statement of expectations appropriate and realistic? Are there any additional examples that would assist telcos in understanding how to achieve the objectives?

Questions 3 and 4 will be answered in relation to each priority area.

Priority area 1: Internal business practices

This priority area places a positive emphasis on governance, corporate responsibility, and training. However, more detail is needed in terms of performance monitoring, evaluation and improvement. Not many of the outcomes are phrased in a way that would be auditable. For example, one outcome is for telcos to 'ensure staff who may interact with vulnerable consumers understand the importance of meeting the needs of vulnerable consumers'. It is not clear how a telco would be able to demonstrate all staff have this understanding.

Aside from the outcomes and examples specified in the SoE, telcos should:

- Evaluate the content of staff training every 6 months to assess its suitability, and swiftly act upon opportunities for improvement.
- Monitor staff performance through regular auditing of customer interactions, for example, randomised reviews of call and email correspondence.
- Test staff's knowledge and understanding at the completion of training modules, and ensure staff undertake refresher training once a year at a minimum.
- For large providers, work and consult with established networks of consumer advocates to identify deficiencies in performance in terms of supporting customers experiencing vulnerability.
- Undertake Vulnerability Impact Assessments for new products and services, to understand how a product or service may impact or be used by consumers experiencing vulnerability.[19]
- Develop and abide by a Reconciliation Action Plan and a Disability Action Plan, and make these publicly available.

Priority area 2: Selling and contracting

It is essential that guidance in this section actively discourages poor selling practices and encourages the provision of appropriate products and services for customers experiencing vulnerability. A clear outcome should be that telcos selling in the mainstream market should ensure affordable, good-value and low-cost communications services are available and are advertised to consumers.

Aside from the outcomes and examples specified in the SoE, telcos should:

- Introduce a cooling-off period for all sales of post-paid value.
- Strongly disincentivise and not reward inappropriate upselling and penalise mis-selling.
- Ensure that when interacting with customers in a selling environment, those customers are informed of low-cost, comparable and affordable options, and are supported to consider their budget.
- Limit advertising add-ons and impulse purchases unless specifically requested by the customer – including in online/web sales.
- Identify customers on lower value, more expensive legacy plans and proactively offer to switch them onto more affordable, better value plans.
- For products and services suitable for or targeted at people with disability, ensure that those products and services are co-designed and user-tested.
- Ensure products are simple and easy to understand, with key terms, costs, and conditions clearly expressed.
- For providers of scale in the mainstream market, provide a basic and affordable fixed-voice plan, and a basic affordable mobile plan with a reasonable amount of data.
- Ensure service cancellation is clear and straightforward; and waive cancellation fees for consumers experiencing vulnerability if a product or service does not end up suiting their circumstance.
- Use affordability assessment tools to help customers understand the total costs and whether they can afford contracts.

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[19] O'Neill 2020, op. cit.

Priority area 3: Customer service

ACCAN's primary area of concern in relation to telcos' interactions with consumers experiencing vulnerability is customer service – particularly in relation to wait times and being contactable, fairness and flexibility. While the examples provided in the SoE are sound, we are concerned there is a lack of prescriptiveness and clarity in the outcomes under this priority area, and consider it of the utmost importance that all telcos are contactable via phone.

ACCAN suggests the following edits to the existing outcomes listed under Priority Area 3:

- Design customer service arrangements and communications to be inclusive and accessible to ~~consumers in vulnerable circumstances~~ *all consumers*.
- Train staff to ~~facilitate~~ *assist* consumers *to* self-identif~~ying~~ as vulnerable, *and implement systems to proactively identify customers who may be experiencing vulnerability*.

Additionally, ACCAN recommends adoption of the following outcomes and examples:

- Ensure customers are able to contact telcos in the mainstream market via a variety of channels. It is essential that this includes via a general 1800 number customer service phoneline that is widely advertised and staffed adequately to reduce wait times, with a call-back service when long wait times are unavoidable.
- Ensure adequate resourcing for all customer service channels, all customer inquiries are immediately acknowledged and actioned, and at least 85% of customer inquiries are resolved within a set, minimal number of days – if not, automatically escalate the inquiry as a complaint.
- Provide adequate trouble-shooting assistance free of charge in all circumstances.
- Minimise and routinely revise fees and charges (for example, contract-break fees and late payment fees) and demonstrate they are proportionate and fair.
- Have in place a quality, fair and differentiated process for communicating with consumers' third-party representatives. This should include a separate channel and clear referral pathway for dealing with consumers represented by a financial counsellor or other consumer advocate.
- Ensure all telcos' websites and smartphone apps are compliant with the latest Web Content Accessibility Guidelines (**WCAG**).
- Make more than one payment method free of charge.
- Offer a priority assistance program for customers with serious or life-threatening medical conditions, which provides priority customer service, technical support, and connect and fault repair timeframes.

Priority area 4: Financial hardship

ACCAN supports the ACMA's development of Priority Area 4; however, outcomes should be re-phrased to ensure they are measurable and specific. It is essential that provisions and guidance surrounding financial hardship practices are robust and fit-for-purpose, given the intersection between payment difficulty and other contributors to vulnerability. There is a significant evidence base that current financial hardship responses by many telcos have failed to keep vulnerable customers connected. This is best demonstrated by the high rates of unsuccessful completion of

financial hardship arrangements.[20] One of the most common issues raised with ACCAN by consumers and their advocates relates to an inability to access fair and flexible financial hardship arrangements.

ACCAN offers the following suggestions for financial hardship outcomes and examples, incorporating key findings from the TIO's Financial Hardship Systemic Investigation Report: [21]

- Publicly advertise all financial hardship options on offer and explain these to customers inquiring about financial hardship arrangements.
- Ensure ICT processes and systems allow for consistent data and record-keeping related to customers in financial hardship. This should be quantified data that can be exported to assist the ACMA's financial hardship reporting.
- For large providers, establish and advertise simple low-income measures and voucher programs delivered via community organisations, and undertake outreach to invite organisations to participate.
- Provide clear and easily understandable details of financial hardship arrangements in writing directly to consumers.
- Prioritise the use of incentives or reward-based financial hardship arrangements, for example payment matching or credit in exchange for payments made by consumers.
- Ensure consumers in financial hardship arrangements have access to dedicated and specialised customer service that provides timely assistance.
- For mainstream providers of scale, join and invest in cross-sector financial hardship initiatives such as Thriving Communities Partnership's One Stop One Story Hub.[22]

Proactive financial hardship supports that do not rely on a consumer self-identifying vulnerability include:

- In discussion with the customer, actively propose what fees, charges and non-essential add-ons can be removed from the account.
- Make sure that payment instalments for payment plans are fair and realistic; for example, that they make up no more than 5% of the consumer's weekly income.
- Do not unilaterally impose repayment plan payment amounts or make them a condition of qualifying for a financial hardship arrangement.
- Implement automated assisted decision-making software where appropriate and with adequate human oversight to help identify consumers experiencing vulnerability. An example would be using natural language processing (**NLP**) software for the identification of relevant key words in customer communications that would automatically flag a customer as potentially experiencing payment difficulty. This would then need to be addressed appropriately in conversation with the customer.
- Proactively assess the cause of a prolonged debt over a certain amount (for example, $100) to understand the reason for non-payment.
- Implement systems where a debt over a certain amount, or a debt that is held for over a certain time period, automatically triggers a response from a specialised hardship team.
- Allow customers to nominate a spend limit for any service on their account if they wish. For example, the customer could nominate a spend limit of $100 per month, which would

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[20] Australian Communications and Media Authority 2021, op. cit

[21] Telecommunications Industry Ombudsman 2021, op. cit.

[22] Thriving Communities Partnership, https://thriving.org.au/what-we-do/the-one-stop-one-story-hub

preclude them from signing up for a service above this amount unless they withdraw the spend limit.

Priority area 5: Disconnection

As highlighted on page 12, ACCAN recommends that Priority Area 5 is expanded to incorporate guidance related to credit and debt management.

The outcomes and examples under Priority Area 5 do not match the specified goal: the goal is that 'disconnection is a last resort and only undertaken after consultation with the affected consumer or as part of an agreed financial hardship arrangement'. However, the outcomes state that telcos should 'minimise the number of consumers disconnected while in a financial hardship arrangement or within 12 months of exiting a financial hardship arrangement'. ACCAN has two concerns with this:

- It is incompatible with the TCP Code for customers in financial hardship to be disconnected, as disconnection is a form of credit management that must be suspended while a financial hardship arrangement is being discussed or is in place.[23]
- Use of the phrase 'minimise' is ambiguous and non-auditable.

ACCAN's view is that disconnection should only be undertaken with the customer's expressed consent; this is due to the essentiality and public interest status of communications services. Furthermore, ACCAN is aware that some providers will prohibit a previously disconnected customer from re-contracting any kind of service after being disconnected due to non-payment, including a service of lower value with less credit risk. Priority Area 5 should emphasise that customers experiencing vulnerability must not be barred from contracting new services if they have previously been disconnected.

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[23] Communications Alliance 2019, *Industry Code C628:2019 Telecommunications Consumer Protections Code*, Section 7.7.1, p. 58, https://www.commsalliance.com.au/__data/assets/pdf_file/0011/64784/TCP-C628_2019.pdf