Indigenous Consumer Assistance Network
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By email: consumersafeguardsreview@communications.gov.au

Consumer Safeguards Review
Department of Infrastructure, Transport, Regional Development and Communications
GPO Box 594
Canberra ACT 2601

Dear Sir/Madam

SUBMISSION - CONSUMER SAFEGUARDS REVIEW PART C

The Indigenous Consumer Assistance Network (ICAN) welcomes the opportunity to provide a submission to the Consumer Safeguards Review - Part C - Choice and Fairness Consultation Paper (**the Consultation Paper**).

About the Indigenous Consumer Assistance Network

The Indigenous Consumer Assistance Network Ltd (ICAN) provides consumer education, advocacy and financial counselling services to Indigenous consumers across the nation, with a vision of "Empowering Indigenous Consumers".

Aboriginal and Torres Strait Islander peoples living in regional and remote communities often experience heightened consumer disadvantage. Structural barriers and an uncompetitive marketplace create conditions in which consumer and financial exploitation occur. In its ten years of service delivery, ICAN has assisted people through a range of consumer and financial issues including: dealing with unscrupulous used car dealers, finance companies, payday lenders, telemarketers and door-to-door salesmen. In line with its vision to empower Indigenous consumers, ICAN provides Indigenous consumers with assistance to alleviate consumer detriment, education to make informed consumer choices and consumer advocacy services to highlight and tackle consumer disadvantage experienced by Indigenous peoples.

Our Submission

In our submission we:

- call upon government to acknowledge telecommunications are an essential service;
- provide case studies to demonstrate the consumer harm resulting from a lack of proper regulation of the telecommunications industry;
- support Proposals 1, 2 and 3 in the Consultation Paper; and
- recommend improved consumer protection rules and direct regulation of telecommunications providers.

Further comments in support of our submission follow.

The harm caused

Through our financial counselling casework, we see significant harm caused by the practices of Telecommunication providers and telephone retailers. In particular, we see unaffordable phone contracts, mis-selling or upselling, poor hardship responses and poor dispute resolution. Our clients are frequently unable to advocate for themselves with the telecommunications provider and it can then take significant time and resources for our financial counselling team to resolve the issues.

Highlighting the harm

We have provided some case studies to highlight these concerns. Please note that our clients' names have been changed to maintain their privacy.

Eddie's Story

Eddie is an elderly Aboriginal man living in Far North Queensland. His sole source of income was Centrelink. Eddie had his own mobile plan which he was managing to pay without difficulty. In approximately April 2019, Eddie was asked by his niece to attend the local Optus shop as she was wanting a mobile phone and plan and she didn't have a good enough credit rating to obtain one. According to our client, the Optus sales representative was well aware that the phone was not for our client but for his niece. It was also Eddie's niece that was asking all the questions about the functionality of the phones. Despite this, Optus entered into a second phone and plan with Eddie which was ultimately for the benefit of his niece. The only affordability assessment undertaken by Optus was to check that Eddie had a good track record of making payments on his current Optus plan. Less than a month later, Eddie's niece asked him to attend the Optus store with her again as she had lost the first phone and wanted him to apply for another one. Eddie was again signed up to another phone and plan, meaning that he now had three mobile phone plans with Optus, two of which he was receiving no benefit under. Eddie started to struggle financially and instructs that rather than default on his bills, including his phone plans, he started to pawn personal items at Cash Converters to make ends meet. However, Eddie ultimately fell into significant financial difficulty and ended up with a $1,989 debt to Optus. Following negotiations with Optus, our financial counsellor was able to obtain a significant waiver of this debt.

Mick's Story

Our client, Mick, is an elderly Aboriginal man on the disability support pension. He lives in a remote community in Far North Queensland. In approximately early 2019, he attended JB Hi-Fi, a retail supplier for Telstra. He explained that he just needed a simple phone to get text messages and calls from family. Despite this stated requirement, the seller convinced Mick to sign up to a brand new iPhone with a 24 month contract valued at over $2,000. Mick had no idea how to use email, apps, internet etc. so the iPhone was useless to him. Within 2 months of obtaining the phone, it was lost and so Mick went back to the retailer and explained what happened. At this point, a new sales person signed him up to another iPhone and another 24mth contract valued at over $2000. Mick ended up receiving a debt collection notice for the original contract which confused him as he thought the sales person was helping him out with the old contract not realising he was signing a new contract. Our financial counsellor dealt with Telstra who tried to deflect blame onto the point of sale retailer. It took around 3 months and some significant advocacy to get the original debt waived.

Sid's Story

Sid is a man in his 20's who has intellectual disabilities which lead him to be very aggressive when he doesn't get his way. He walked into a Telstra shop with his grandmother, Clare who is in her 80's and frail. She was in early stages of dementia and can be easily controlled by her grandson. In approximately February 2017, Sid told Clare that he needed her to get him a tablet and internet for him to use and was very loud so the staff of the local Telstra shop heard the conversation. Clare felt that she had to say yes to him and signed a postpaid contract which came with a device. Sid promised to pay the bill and had his contact details put onto the contract so that they only emailed and rang him. None of this was challenged by the Telstra sales team.

Sid didn't pay any money towards the account and within a few weeks, he had become frustrated as the tablet was not doing what he wanted so he smashed it onto the ground, breaking it. Sid then took his Grandmother into another Telstra store two months later and Clare was signed up to a further postpaid contract. Between February 2017 and October 2018, Clare was signed up to a total of five postpaid contracts with no payments ever being made towards any of the accounts.

When Clare was unable to care for herself anymore, her daughter was given Power of Attorney. She received a bill for Clare from Telstra for well over $10,000. She accessed ICAN asking for assistance as her mother doesn't need a mobile phone or tablet and has never learnt how to use them. Our Financial Counsellor contacted Telstra's Special Assistance team for a copy of the contracts and they waived approximately $5000 in contract cancellation fees. A complaint was then lodged with Telstra about the obvious Elder Abuse and the lack of affordability as no payments were made on any of the accounts so why give her another. Telstra halved the outstanding balance and closed the complaint. Our financial counsellor then lodged a complaint with the TIO and a further complaints officer at Telstra waived the balance completely.

Sarah's Story

A middle aged woman, Sarah who has been on Centrelink as her sole source of income for most of her life, went into her local Telstra store to talk about a new phone in around August 2018. She had always used prepaid accounts with her own phone as some months are better than others. The Telstra sales person did a calculation on how much she had spent on prepaid and said that if she can afford to continue to pay that much for pre-paid vouchers, she can afford a postpaid contract with a phone. Sarah didn't want to do this and told the sales person that she was worried she would get behind but the sales person assured her that she can just ask for a payment plan to catch up.

Sarah signed a postpaid contract and within a few months she fell behind. She tried to do a payment plan but the only one Telstra would agree to was for payments that she couldn't afford. She explained this to Telstra over the phone but they still couldn't agree on a payment plan that she could afford. Shortly after the phone was disconnected and she went back to the Telstra store and they sold her a new SIM for her to use in the phone that came with the plan. She continued this way for a couple of months and was then contacted by a debt collector to pay over $3,400.

Sarah didn't have enough money to pay for the debt on top of the prepaid credit and her other basic needs so she accessed ICAN for help. Our financial counsellor contacted Telstra's Special Assistance team and got the debt waived.

Maria's Story

On 17 September 2020, one of our financial counsellors assisted an elderly lady, Maria who came to us with concerns about a phone plan she had entered on the weekend. On the Saturday before she attended ICAN, Maria instructs that she had gone into Harvey Norman to purchase an Apple IPhone 7. Her daughter in law had told her they were on special at Harvey Norman. Maria instructs that she just wanted to purchase a new phone outright. However, the sales representative signed her up to a $45 per month contract with Optus. She says she was not given any paperwork and she didn't want the phone plan. In convincing her to sign up, the sales representative told her that if she wanted the $200 discount on the phone, she had to sign up to the Optus plan. All that she had wanted was to purchase the phone that was the same as the phones used by the rest of her family so they could help her use it and she stay connected to them. Maria instructs that the salesman gave her very little information, barely making eye contact with her the whole time, punching keys on the computer and then handed her the phone.

Richard's Story

Our client, Richard, was referred to us from another community agency. Richard is an Aboriginal man living in a regional centre in Far North Queensland. When we spoke to him he was very stressed about a Telstra bill for nearly $6,000, which he could not afford to pay. Much of the alleged debt was, in Telstra's words "Huge excess data charges". Richard advised us that he phoned Telstra last year to get help in activating a phone that was delivered to him and while he was on the phone, Telstra offered him a tablet. Even though Richard had no idea what a Tablet was, he took the offer. Richard suffers from alcoholism and was in significant financial difficulty at the time. He instructs us that he pawned the tablet to get a loan through Cash Converters and when he went back to pay the loan off and get the Tablet back, he was advised they no longer have it. He was experiencing significant stress over the bill from Telstra when he sought our services. With our assistance, Telstra waived the debt.

Telecommunications is an essential service

Telecommunications have always been an essential service. With Covid-19, we now see just how critical telecommunications have become. Now more than ever, it is critical that people have access to telecommunication services in order to:

- participate in society, including undertaking daily activities such as banking, engaging with Job network providers and taking up employment opportunities, engaging with Centrelink and making legal and/or medical appointments.
- Keeping in touch with family, particularly through free communication services e.g. messenger, Whats App for financially vulnerable clients. With Covid-19 restrictions locking down entire communities in North Queensland (and indeed the whole of Australia) and people in Aged Care Facilities, we saw just how critical these connections became for the people we help.
- Receiving medical assistance – including through medical and safety alert apps.
- Accessing Transport such as Taxi's and Uber.
- To access the majority of government services which now push clients to use apps for critical government information and services such as Tax, Superannuation, Centrelink reporting, Medicare and MyGov.
- The Covid Safety App.
- For many of our clients who live in regional and remote north and far north Queensland, telecommunications is the only means by which they can access certain essential services as these services don't have offices or branches in these regions. This includes services such as Banking, Centrelink, Medicare, financial counselling and legal services.

- In our experience, telecommunications are also essential to people who are fleeing family violence and need to remain connected to their loved ones as well as access the services they need to re-establish their lives.

Improved Regulation is critical

The stories of the people above highlight the problems associated with a telecommunications sector that is insufficiently regulated and the harm that is caused to people who are already experiencing vulnerable circumstances. It is critical that telecommunications are regulated like other essential services. At a minimum:

- Telecommunication providers should be licensed;
- There should be significantly improved protections to deal with mis-selling issues, affordability assessments, hardship responses, responses to vulnerable consumers, cultural safety, particularly for Aboriginal and Torres Strait Islander peoples, dispute resolution and family violence;
- ACMA's rule-making powers should be enhanced to replace the current self-regulatory regime with enforceable standards set by the regulator; and
- There should be increased penalties for non-compliance with consumer protection rules, and an increase to ACMA's resources to better enable it to monitor and enforce compliance.

We have had the opportunity to read the Submission of the Consumer Action Law Centre, Victorian Aboriginal Legal Service and WestJustice and support and endorse their detailed recommendations in full.

This submission can be made public.

Please contact Jillian Williams at ICAN on 07 40311073 or at jillian.williams@ican.org.au if you have any questions about this submission.

Yours Sincerely,

Jillian Williams

Operations Manager

Indigenous Consumer Assistance Network