Australian Government

Australian Communications and Media Authority

Regulation Impact Statement

Telecommunications Consumer Protections Code C628:2012

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Introduction

Activities in the telecommunications industry are regulated by the *Telecommunications Act 1997* (Cth) (the Act). The Act encourages a co-regulatory regime involving both the Australian Communications and Media Authority (ACMA) and industry. Through this co-regulatory framework the industry is given the opportunity to develop industry codes of practice to regulate itself and give the ACMA the power to intervene to address inadequacy in community safeguards.

In response to a considerable increase in consumer telecommunications complaints over the last four years, in April 2010 the ACMA initiated the Reconnecting the Customer (RTC) public inquiry. This inquiry highlighted code deficiencies which is causing poor customer care by telecommunications service provides. This prompted the ACMA to engage Communications Alliance in submitting a revised industry code—the *Telecommunications Consumer Protections Code C628:2012* (the Code)—for registration with the ACMA which addresses the customer care problems.

Communications Alliance (CA) undertook a public consultation process on the draft Code in 2011. The Code contains measures intended to improve advertising practices, customer information, spend management tools and complaints-handling processes.

The ACMA proposes to register the Code on 5 July 2012, at which time it will come into effect. Telecommunications suppliers will be given a grace period to implement certain obligations contained in the Code.

Once the Code is registered, the ACMA will continue monitoring consumer complaints about the telecommunications industry and actively respond to breaches of the Code. Communications Alliance will educate its members about the Code and promote the Code through its website.

CA will review the Code in two years, or earlier in the event of significant relevant developments.

Background

Current regulatory arrangements

The *Telecommunications Act 1997* (Cth) (the Act) regulates the activities of participants in the telecommunications industry including 'carriers' and 'carriage service providers' (referred to as suppliers). The Act encourages a co-regulatory framework to the management and regulation of telecommunications activities involving the industry and the Australian Communications and Media Authority (ACMA). It requires that industry be given the opportunity to develop industry codes of practice to regulate itself and that the ACMA may intervene when industry codes prove inadequate at providing community safeguards.

Section 117 of the Act states that if the ACMA determines that an industry code submitted for registration has addressed all public interest considerations including community safeguards issues, that it must register the code. Section 125 of the Act allows the ACMA to make an industry standard where it has determined that an industry code is deficient or where the body or association responsible for developing the Code has been given an opportunity to remedy the deficiencies and has failed to do so within that time.

Section 106 of the Act describes compliance with industry codes as 'voluntary'. However, once a code governing the conduct of suppliers has been registered, if the ACMA is satisfied that a supplier has failed to comply with the code, it may either issue that supplier with a formal warning about its breach of the code[1] or give that supplier a direction to comply with the code.[2]

If the supplier fails to comply with a direction, the ACMA may take proceedings in the Federal Court, seeking an order that the supplier pay a civil penalty of up to $250,000.[3] A recently introduced alternative to Federal Court proceedings will soon allow the ACMA to issue an infringement notice, requiring a supplier to pay up to $6,600 (or other amount specified in a ministerial determination) for its alleged failure to comply with an ACMA direction.

Background and context

It is estimated that the telecommunications sector generated $40.8 billion in revenue in 2011 with an approximate net profit of $6.1 billion.[4]

There are approximately 1,214 telecommunication suppliers registered with the TIO Scheme[5] that provide telecommunication services to the market. The telecommunications market is dominated by three suppliers: Telstra Corporation Ltd has a relative market share of 46 percent; Sing Tel Optus Pty Ltd a market share of 22.2 %; and Vodafone Hutchison Australia Pty Ltd a market share of 12.6%.[6] IBIS reports that for the mobile telecommunications segment of the market, the three leading suppliers account for over 99 per cent of revenue.[7]

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[1] See subsection 122(2) of the Act.

[2] See subsection 121(1) of the Act.

[3] See paragraph 570(3)(b) of the Act.

[4] IBISWorld Industry Report J7100, Telecommunications Services in Australia, December 2011.

[5] As listed in the TIO 2011 Annual Report.

[6] Ibid.

[7] Ibid, pg 24.

The current *Telecommunications Consumer Protections Code* (C628:2007) (the 2007 Code) was developed by Communications Alliance Ltd, the peak telecommunications industry body in Australia, to establish obligations on telecommunications suppliers to provide appropriate community safeguards for consumer-related telecommunications activities. The development of the Code represented the consolidation of six previous individual codes that dealt with these matters separately.

The 2007 Code contains consumer safeguards around advertising practices and disclosure of information to consumers; consumer contracts; billing; credit management; customer transfer; complaint handling; and code administration and compliance.

The Act sets out the intention of the Parliament that bodies representing sections of the telecommunications industry develop codes of practice that provide for various operational arrangements and consumer protections. The Act also recognises that where areas of a code fail to provide appropriate safeguards that the regulator – the ACMA - may intervene to establish standards.

The 2007 Code was registered by the ACMA on 19 May 2008. The Code was subject to review two years from its registration date and in May 2010, Communications Alliance initiated a formal review and public consultation with industry, consumer groups, the ACMA and other government agencies.

In April 2010, the ACMA initiated the *Reconnecting the Customer (*RTC*) Inquiry* in response to the growth in consumer complaints made against telecommunications suppliers to the Telecommunications Industry Ombudsman (TIO)[8]. In the previous four years, TIO statistics documented the steady rise of consumer dissatisfaction with issues relating to contracts, billing and payments, customer service, complaint-handling, and credit management practices.

RTC inquiry findings

The RTC Inquiry concluded in September 2011 and made recommendations to systematically address code deficiencies (that came to light during the Inquiry) by proposing new rules that suppliers need to comply with to improve their customer care practices.

These recommendations were:

- Clearer pricing information in advertisements: all suppliers should clearly disclose pricing information in their advertisements in a way that will make it easier for consumers to compare plans. Advertisements should no longer use words that could be confusing for customers.
- Improved information about plans: all suppliers should give customers a simple, standard explanation of what is included in a plan, how bills are calculated and what other essential information they need to know about the plan (similar to a 'product disclosure statement').

[8] The TIO was established in 1993 to investigate, resolve, make determinations and give directions relating to complaints by residential and small business consumers of telecommunication services.

- Comparisons between suppliers: industry should provide more information about how good their customer care is, particularly how quickly they resolve their customers' enquiries.
- Tools to monitor usage and expenditure: all suppliers should enable customers to track their usage and expenditure on data, calls and SMS during a billing period to help reduce the risk of bill shock.
- Better complaints management: all suppliers should have a standard complaints-handling process that meets a benchmark standard and includes timeframes for dealing with a complaint.

Following the conclusion of the RTC Inquiry, on 9 September 2011, the ACMA issued a notice under section 125 of the Act to Communications Alliance requiring that measures be undertaken to improve advertising practices, customer information, spend management tools and complaints-handling processes. The ACMA considered that issuing a written notice to Communications Alliance was the most effective way to allow industry to address the code deficiencies in a way that upheld the intent of the *Act.* As the code review process initiated by Communications Alliance was currently underway, it was hoped that the RTC Inquiry's recommendations would be addressed by this industry review.

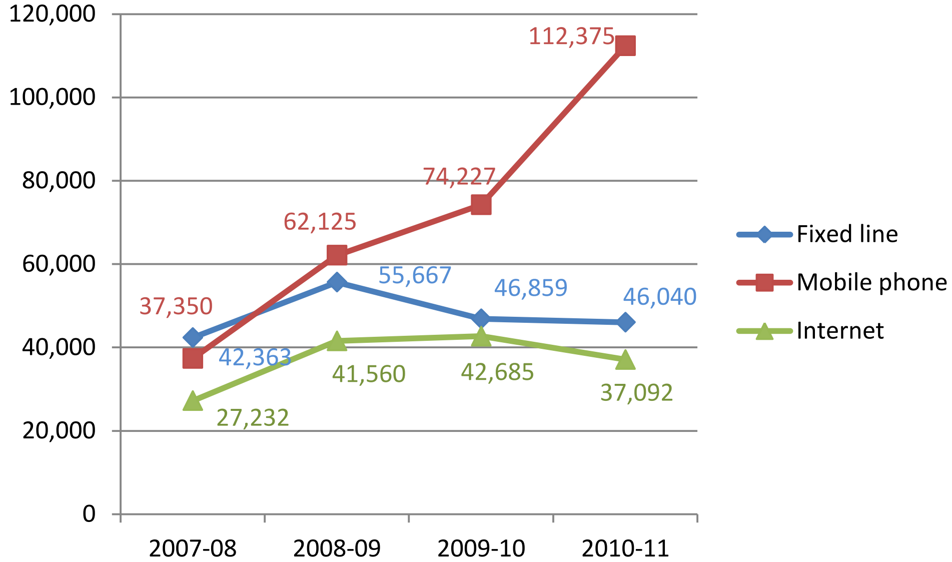
The section 125 notice also flagged that should Communications Alliance fail to address the issues raised, the ACMA may develop an industry standard by use of its powers under section 125 of the *Telecommunications Act 1997.*

On 7 February 2012, Communications Alliance submitted an industry revised Code, the *Telecommunications Consumer Protections Code C628:2012* (the Code), for registration with the ACMA. The ACMA engaged in further consultation with Communications Alliance to work on the outstanding issues that the ACMA considered were not adequately addressed in the first submission. Communications Alliance re-submitted its industry revised code on 30 May 2012.

Problems

The review of the 2007 Code is timely due to the rise in consumer complaints recorded by the TIO (see figure 1). As TIO statistics have become a measure of how the industry is behaving when providing services to its customers, the recorded rise in complaints prompted the ACMA to examine more closely the causes of consumer dissatisfaction with the telecommunications industry. The TIO records a new complaint when it first receives an expression of dissatisfaction from a consumer whose complaint has not been resolved by their supplier.

Figure 1: Annual TIO new complaints by service type[9]



In FY2010-11, the TIO received 195,507 new complaints related to landline, internet and mobile phone services with mobile phone complaints accounting for 57 per cent of total complaints. New mobile phone complaints increased by 66 per cent in 2010-11and have tripled since 2007-08.

A complaint to the TIO can give rise to multiple *complaint issues*. The TIO allocates complaint issues to these categories which are generally aligned to the 2007 Code rule chapters.

The TIO Annual Reports[10] consistently documents that the major complaint issues for customers are billing and payments, complaints-handling and customer service which account for nearly 60 per cent of new complaints issues[11].

- <u>Billing and payments</u>: the main sources of billing and payments complaint issues are about consumers disputing usage and recurring charges, administration fees, incorrect and unauthorised direct debits and lack of access to print or online bills . This category represented 19 per cent of new complaint issues in 2010-11.
- <u>Complaints-handling</u>: the main sources of complaints-handling issues are about suppliers failing to action undertakings, not informing customers of complaint outcomes, refusal to escalate enquiries internally, failure to inform customers of

[9] ACMA Communications Report 2010-11, pg.125 (*source: TIO*)
[10] TIO Annual Reports 2007- 2011
[11] ACMA Communications Report 2010-11, pg.126.

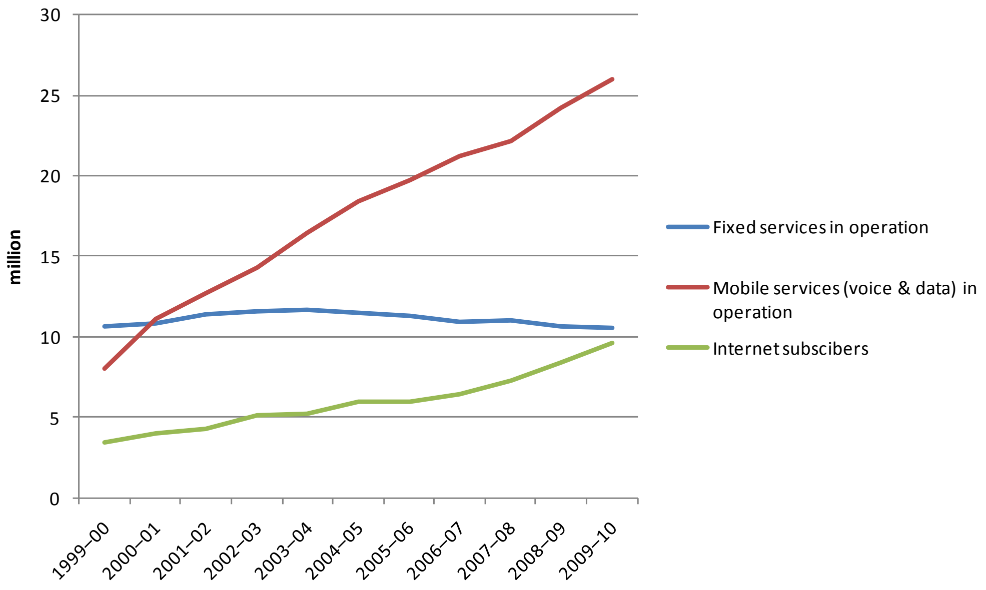
external avenues of redress such as the TIO and lack of acknowledgement from their supplier of written complaints. This category represented 19 per cent of new complaint issues in 2010-11.

- Customer service: the main sources of customer service issues are about suppliers providing incorrect and inconsistent advice to consumers and failure to action promises made to customers. The root cause of complaints in this category is driven by billing and payment disputes and incorrect advice provided at point-of-sale. This category represented 24 per cent of new complaint issues in 2010 -11.
- Contracts: the main sources of contract issues are about disputes over pricing, terms and conditions and provision of misleading information or incomplete information at the point-of-sale by the supplier. This category represented 11 per cent of new complaint issues in 2010-11.
- Credit Management: the main sources of credit management issues are about disputes over credit management action including failure to notify consumers before suspending/disconnecting services and/or listing customers with debt collection agencies when outstanding debts are in dispute. This category represents nine per cent of new complaint issues in 2010-11.

Changing Consumption Patterns

Mobile service complaints began surpassing fixed-line telephone complaints from FY2008-09[12] due, in part, to the growth of the mobile phone market. Figure 2 shows the rapid rise in mobile subscribers as compared to fixed and internet subscribers.[13] While it is not surprising that mobile phone complaints have generated the most customer complaint issues given the growth in this segment of the market, the ACMA has found that the 2007 Code rules no longer adequately provided consumer safeguards because of the increasing sophistication and complexity of telecommunication services.

Figure 2: Mobile, fixed-line and internet subscribers[14]



The ACMA has found that it is the changing trend in consumer usage patterns that is driving the need for greater consumer safeguards in areas of the 2007 Code rules that

12 TIO 2008-09 Annual Report, pg 41.

13 ACMA's Communications Reports, 2004–05 to 2009–10.

14 ACMA, Reconnecting the Customer Inquiry report, September 2011, pg 40 (source: *ACMA's Communications Reports, 2004–05 to 2009–10.*

are no longer operating effectively to provide a customer care model that adequately protects the interest of consumers. The ACMA identified the desirability of improving the 2007 Code in line with the outcomes of the RTC Inquiry.

Reconnecting the Customer (RTC) Inquiry

In response to the increase in TIO customer complaints, in April 2010, the ACMA initiated the *Reconnecting the Customer* (RTC) Inquiry to examine the causes of consumer dissatisfaction with telecommunications suppliers and to consider what changes might be required to improve the quality of customer care practices. The Inquiry examined customer care practices at key points in the customer–supplier life cycle to determine the underlying causes of customer care problems.

The ACMA undertook an evidence-based approach to its examination of customers' dissatisfaction with their suppliers including commissioning four research projects (see consultation section for more information) to inform the release of a public discussion paper. The ACMA received 135 submissions from consumers, consumer groups, small business, industry and government entities with a majority from individual consumers recounting their experiences with telecommunication suppliers.

The RTC Inquiry found that there were common underlying causes to customer complaints including the complexity of advertising and point-of-sale information, billing and payments, customer service and complaints-handling processes.

Lack of clear and accurate advertising and point-of-sale information

The RTC Inquiry found that the advertising and marketing provisions of the 2007 Code had not provided adequate community safeguards in relation to a supplier's obligation to disclose important information about broadband and mobile products to allow consumers to compare offerings, make informed choices and to avoid being misled. This information includes pricing structure, product features and coverage.

The lack of clear and comprehensible advertising and marketing disclosures is most significantly impacting consumers that purchase a mobile 'Included Value Plan'[15] or a broadband plan that involves the bundling of services.

For example, the Australian Competition and Consumer Commission (ACCC) provided input to the RTC Inquiry that it had publicly criticised the telecommunications sector for its poor advertising practices and that while its actions had addressed specific incidents of misconduct and provided a deterrent to individual suppliers, problematic advertising practices remain widespread within the industry. [16]

The ACCC's 2010-11 annual report noted that a significant part of its recent enforcement activity in relation to misleading and deceptive conduct involved the telecommunications sector[17]. Successful enforcement outcomes in 2010−11 in relation to misleading and deceptive advertising included:

- SingTel Optus Pty Ltd paid 27 infringement notices totalling $178,200 in relation to advertising for 'Max Cap' plans.
- Advertisements promoting Optus' broadband plans as being 'unlimited' were declared by the court to be misleading and deceptive.

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[15] Include Value Plan is a mobile post-paid service plan under which the consumer receives a larger amount of monthly included value than the minimum monthly charge they pay (e.g. for $50 per month, receive$500 included value), to use on a combination of services across mobile calls and SMS and data allowance usage.

[16] ACMA, Reconnecting the Customer Inquiry report, September 2011, pg. 86.

[17] ACCC Annual Report 2010-11, pg.44

- Dodo Australia Pty Ltd paid four infringement notices totalling $26 400 in relation to advertising for its Unlimited ADSL2+ broadband plan.

The ACMA undertook data analysis to estimate the current consumer costs associated with the industry's poor advertising practices and lack of critical information disclosures that result in consumers making sub-optimal choices at point-of-sale (i.e. the wrong contract problem)[18]. The analysis shows that the cost to consumers of choosing the wrong product for their needs is estimated on average at $1.48 billion a year[19].

Bill Shock

Consumer problem

The RTC Inquiry found that bill shock is a key consumer problem that is an underlying factor contributing to customer dissatisfaction in other areas of the customer care model. Bill shock is the experience of a consumer either receiving a higher than expected bill or seeing their prepaid credit run down faster than expected. It is both a cause of customer dissatisfaction and a result of poor customer care.

The TIO noted in its submission to the Inquiry that bill shock commonly arises because of suppliers:

- not putting in place adequate credit controls or providing the right information to consumers to ensure that consumers are not put in a position of financial overcommitment
- [not offering] … adequate credit control tools or mechanisms for consumers
- [providing] insufficient advice to consumers about these tools to help them better manage their expenditure. Sometimes even when these credit controls are available, they may not work well or be easy to use.[20]

Many non-for-profit organisations tendered evidence during the RTC Inquiry that provided examples of the consequences of bill shock on their constituents. For example, the Brotherhood of St. Laurence provided a table based on mobile-to-mobile call time (hours) and the costs incurred.[21]

Table – Brotherhood of St Laurence

Many of the examples provided as submissions that informed the RTC recommendations involved mobile and broadband plans. This reflects the increased occurrence of bill shock due to the complexity surrounding charging and billing arrangements for post-paid plans.

Mobile-to-mobile call time (hours)	15 (user stays roughly within cap)	30 (user exceeds cap)	45 (user exceeds cap)
Cost (approx)	$79	$889	$1,699

[18] ' The ACMA heard from many consumers and consumer representatives that poor advertising and marketing practices across the telecommunications industry add to consumer confusion and complexity of choice,' ACMA, Reconnecting the Customer Inquiry report, September 2011, pg. 81.

[19] See Attachment A for ACMA analysis. The ACMA extrapolated figures of from a UK model where price comparison website Bill Monitor carried out statistical analysis on 28,417 UK bills and estimated that UK consumers waste £2.62 billion pounds per year.

[20] TIO submission to the Reconnecting the Customer Inquiry consultation paper, pg. 30.

[21] Brotherhood of St Laurence submission to the Reconnecting the Customer Inquiry consultation paper pg. 7.

A study conducted for the RTC Inquiry found that among 3G mobile bill payers, 50 per cent of post-paid customers had received an unexpectedly high bill on a current or previous plan, while 44 per cent of prepaid customers had run out of credit faster than expected on their plan[22]. The study found bill-payers using 3G features generally spend more money on their highest unexpected bill—48 per cent spent between $200 and $700 on this bill.[23]

This research also corresponds to a 2012 Macquarie University “State of the Mobile Nation” research report that found that 45 per cent of mobile phone users suffered bill shock in 2011 with the median overspend being $40 per bill due mainly to voice calls made followed by data and SMS usage. The report found that the greater choice of products and services on the market was not translating into value for customers.[24] According to the report, the problem of bill shock is estimated to be costing the country more than $557 million a year.

Industry problem

The consequences of bill shock for telecommunications suppliers are a growing problem. The consequences of bill shock by customers that are not aware of their voice and data usage and the subsequent inability of these customers to pay for unexpected costs (usually exceeding their plan or contract allowance) is having a detrimental effect on suppliers’ business operations.

For example, it was also reported in August 2010[25] that wireless broadband related bill shock cost Telstra as much as $90 million in the 2010 financial year through the company having to waive fees or write off debts owed by customers who refused to pay their bills. Telstra chief executive, David Thodey, claimed there had been a mismatch between customer’s understanding of the upfront cost of wireless plans and the additional fees associated with excess data downloads.

The industry as well as consumer groups such as the Australian Communications Consumer Action Network (ACCAN) had previously considered options to address this problem including proposing switching off mobile broadband services when caps are breached. [26]

The RTC Inquiry acknowledged that there are suppliers in the industry that are working proactively to address this problem and some have introduced expenditure management tools for their customers to monitor their usage but that this has been patchy.

The Inquiry found that the 2007 Code rules fail to provide the sector with minimum standards to compel all suppliers to offer their customers expenditure management tools/ notification facilities to monitor how charges are accumulating within a plan cycle so that customers are aware of threshold limits reached during that period. The Inquiry considered that a more consistent industry approach is needed to address this problem and that requiring suppliers to provide information and access to expenditure

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[22] ACMA, 3G mobile bill-payers’ understanding of billing and charging arrangements, June 2011, pg 25.

[23] Ibid, pg 29.

[24] Macquarie University, ‘State of the Mobile Nation’ report, March 2012, http://www.smh.com.au/technology/technology-news/bill-shock-hits-one-in-two-mobile-phone-users-study-20120329-1vz7o.html#ixzz1qRQK1drI

[25] http://www.computerworld.com.au/article/356745/bill_shock_cost_telstra_up_90_million/

[26] http://www.crikey.com.au/2010/08/13/364m-bad-debts-help-drag-telstra-shares-to-all-time-low/

management tools will reduce the problem of bill shock for consumers as well as for the industry.

Billing and credit management'

As part of the RTC Inquiry's findings on the need to improve consumer's access to expenditure management tools, the Inquiry also identified that bill shock can be mitigated by having additional code rules to require minimum standards for the content and presentation of billing information. This is to provide consumers with access to detail and accurate information about their usage patterns. This will help consumers to better understand their usage patterns, both within and outside the included value of a plan and make it easier to understand charging arrangements.

The 2007 Code does not provide adequate consumer safeguards in relation to the need to disclose minimum billing information in relation to detailed call, SMS or data download charges. The were also limitations on customers' rights to access past or historic billing information to analyse their own bills and usage patterns.

Complaints-handling process

The RTC Inquiry found that there is a lack of transparency in suppliers' internal complaints-handling processes and that this generates a lack of accountability of the industry to consumer complaints. It found that consumers were dissatisfied with their suppliers' complaints-handling practices and the lack of timely resolution of complaints. Common situations described to the Inquiry involved the lack of follow-up information, dissatisfaction with the outcome of the complaint, refusal to escalate the complaint within the organisation and failure to inform customers about external areas of redress such as the TIO.

The 2007 Code does not provide for minimum benchmark publishable standards that all suppliers should be obligated to meet in relation to a number of complaint handling areas. These gaps include timeframes for complaint acknowledgement and resolution, obligations to inform customers of complaint outcomes, record keeping that enable customers to track their complaint and rules requiring suppliers to clearly promote the services of the TIO.

In community research commissioned by the ACMA for the RTC inquiry[27], 47 per cent of consumers surveyed did not know whether or not their supplier had a complaints-handling policy. In addition, only eight per cent of consumers surveyed who had contacted their supplier in the last six months dealt with the formal complaints-handling department. Of these, 41 per cent believed that their matter should have been referred to the complaint-handling area more quickly.

The Inquiry considered that consumer outcomes will be materially improved by mandating enforceable rules that require all supplies that deliver retail services to have internal complaints-handling processes in place and that each complaint received should meet specified benchmark standards. This would reduce the costs incurred as a result of poor complaints-handling practices.

Cost to consumers and industry of telephone complaints

The ACMA undertook data analysis to estimate the costs to customers and suppliers involved in telephone complaints using the value of time as a measure to reflect some of the costs related to existing complaints-handling processes. The ACMA analysis

[27] Refer to Roy Morgan research at attachment B

shows that the costs to consumers, the TIO[28] and industry of telephone complaints are estimated at $108 - $216 million per annum.[29]

As these costs do not include costs associated with the entire complaints-handling process (i.e. front-end or behind-the-scene costs of customers and suppliers) but only of the telephone call complaint costs, it is likely that the actual costs associated with the entire complaints-handling process are significantly higher.

The ACMA's analysis incorporates the costs of market failure caused by the high level of complaints requiring external dispute resolution in telecommunications, relative to other industries.

[28] The TIO is an industry-funded Ombudsman service and its income is generated from industry suppliers that are charged fees for the TIO's complaint resolution services.
[29] Refer to Attachment A for ACMA analysis.

Objectives

To address consumer dissatisfaction with the telecommunications industry and areas of concern identified by the RTC Inquiry, the ACMA is seeking to:

- Improve marketing and advertising practices so that suppliers are required to provide clear information on pricing, product features and billing so that consumers are able to make comparisons between products/services;

- Improve the expenditure and monitoring tools for consumers to assist them to manage their product /service and track data and expenditure usage in order to reduce the prevalence of 'bill shock'; and

- Improve timeframes for consumer complaint acknowledgement and resolution by having the industry adopt a common set of benchmark standards for the complaints-handling process.

The ACMA needs to consider and recommend an option that meets its objectives and which fits within the regulatory policy framework under the Act. That is:

- Section 3(2)(h) which states that Parliament's intention is to provide appropriate community safeguards in relation to telecommunications activities and to regulate adequately participants in sections of the Australian telecommunications industry; and

- Section 4 which states that Parliament intends that telecommunications be regulated in a manner that:
  - promotes the greatest practicable use of industry self-regulation; and
  - does not impose undue financial and administrative burdens on participants in the Australian telecommunications industry.

Options for achieving the objectives

In considering how to achieve the objectives outlined in this paper, the ACMA has analysed two options:

Option 1: Status Quo

Under this option, the ACMA allows the existing Code – *Telecommunications Consumer Protections Code* C628:2007 – to continue to operate without any changes.

Option 2: the ACMA registers the revised industry code – *Telecommunications Consumer Protections Code C628:2012*

Under option 2, the ACMA would register the 2012 Code submitted by Communications Alliance. The revised code incorporates the existing supplier obligations of the 2007 Code and introduces new obligations to address the RTC Inquiry recommendations. These new obligations include improvements to advertising practices and information disclosure, introduction of spend management tools and improvements in complaints-handling processes.

Option 2 is supported by section 112 of the Act, which states that Parliament intends that bodies or associations that the ACMA is satisfied represent sections of the telecommunication industry should develop codes (industry codes) that are to apply to participants in the respective sections of the industry in relation to the telecommunications activities of the participants. If the ACMA is satisfied that an industry code lodged with it has met a number of criteria under section 117, then the ACMA must register the code.

If the ACMA registers the revised industry code, it would uphold the current co-regulatory environment that has historically been weighted in favour of industry self-regulation.

Alternative mechanism under Option 2

However, should the revised 2012 industry code fail to deliver the necessary reforms recommended by the RTC Inquiry, the ACMA has recourse to an alternative regulatory mechanism to achieve its objectives if it can't be achieved through self-regulatory means.

The ACMA may develop an 'industry standard' to replace the 2007 Code. The industry standard would incorporate the new supplier obligations of the industry revised code and would introduce additional obligations that the ACMA considered necessary to materially improve customer care practices.

This alternative mechanism is supported by section 125 of the Act, which states that if the ACMA is satisfied that the code is deficient, and that the body/association has been given the opportunity to rectify the deficiencies within a specified period and fails to do so within that time, then the ACMA may make standards.

Option 2 supplier obligations

Option 2 would include the following new supplier obligations.

Critical information summary disclosures

Option 2 would introduce new obligations to provide standardised information about products and services to provide consumers with clear and comparable information to purchase a product/plan that better suits their needs. New obligations will:

a. Require suppliers to provide unit pricing for a standard two minute national mobile call, a standard national SMS and the cost of one megabyte data within Australia;
b. Require suppliers to include a range of other essential information such as roaming costs, TIO contact details and early termination fees; and
c. Require suppliers to adopt a standard order to display critical information.

Advertising practices

Option 2 would introduce new obligations to improve advertising practices so that advertisements that referred to the price or included value of a plan would be required to disclose the standardised unit pricing and charging arrangements – again to ensure that consumers had better access to information for easier price comparisons. The obligations would also require suppliers to provide accurate terminology in advertising. New obligations will:

a. Require suppliers to discontinue the use of misleading terminology such as the word "cap" where consumers may incur more than the monthly quoted amount (unless the offer specifically refers to a "hard cap");
b. Require suppliers to disclose unit pricing for the following key elements of included value plans - national calls, standard SMS and downloading one megabyte of data in advertisements where price is quoted;
c. Require suppliers to substantiate advertising claims to the ACMA upon request; and
d. Require suppliers to maintain and comply with adequate review processes for its advertising practices.

Billing

Option 2 would introduce new obligations to provide additional billing information that will provide customers with the ability to monitor their expenditure and better manage their plan. New obligations will:

a. Require supplier to widen billing provisions to apply to pre-paid services;
b. Require suppliers to provide some additional information in bills such as where to locate call and data usage information;
c. Require suppliers to reduce back billing period so that no charges older than 160 days from the date the charge was incurred can be billed (*previously 190 days*);
d. Require suppliers to provide total bill amounts for each of the two previous billing periods;
e. Require suppliers to provide right to free-of-charge historic billing information for 24 months.

Expenditure management tools

Option 2 would introduce new obligations to provide spend management tools and notification alerts at expenditure threshold points so that customers can monitor charges and usage accumulation over a billing period. New obligations will apply to all new included value plans and new post-paid internet plans and commence 12 months after the date of code registration for large suppliers and 24 months after the date of code registration for small suppliers.[30] New obligations will:

[30] Small suppliers are those with less than 100,000 customers.

a. Require suppliers to send notification alerts of data, voice calls and SMS usage no later than 48 hours after the customer has reached data usage and expenditure thresholds of 50, 85 and 100 per cent; and
b. Require suppliers to include notification information about charges applying when the customer has reached 100 per cent of data or expenditure usage.

Complaint-handling

Option 2 would introduce new obligations to provide customers with more certainty in the complaints-handling process. It will:

a. Require suppliers to provide tighter timeframes for complaint acknowledgement and resolution, including a special process for urgent complaints and additional obligations to inform customers of complaint outcomes;
b. Require suppliers to maintain better records, such as those that would enable the provision of unique customer complaint reference number to track a complaint;
c. Require suppliers to more explicitly promote TIO dispute resolution services to customers; and
d. Require suppliers to comply with their complaint handling processes and policies.

Credit management

Option 2 would introduce new obligations to provide easy access to credit policy information. It will:

a. Require suppliers to proactively provide information relating to their financial hardship policies when reminder notices are issued to customers (current requirement is that the information be available on the supplier website); and
b. Require suppliers to provide clear policy rules and assessment before accessing a customer's security bond or referral to debt collection agencies.

Code compliance and monitoring

Option 2 would establish a new industry compliance body – Communications Compliance. The establishment of Communications Compliance has been proposed by Communications Alliance to address poor compliance practices. Communications Alliance has indicated that the new body will monitor the practices of suppliers and will report on industry compliance breaches to the ACMA and the TIO. In this way it will leave the function of enforcement to the relevant regulators. The proposal to establish the new entity will:

a. Require Communications Compliance to develop metrics and benchmarking standards in consultation with the ACMA and the TIO for industry reporting purposes: and
b. Require suppliers to provide annual reporting data or mandatory compliance attestations against industry metrics to Communications Compliance.

Alternative mechanism under Option 2

As stated above, the alternative mechanism under Option 2 would involve the ACMA developing additional supplier obligations to fill in the gaps between the RTC Inquiry recommendations and the industry revised Code. The ACMA has identified two areas that may require additional supplier obligations to provide for a greater level of consumer protections. That is, having suppliers:

a. Disclose volumetric information for included value plans (i.e. how many standard calls or SMSs could be made within a plan based on the standardised rates); and
b. Disclose standardised unit pricing charges in television advertisements that refer to the price of included value plans.

Impact analysis

Option 1: Status Quo

Benefits

The status quo would not impose any new obligations on industry as the existing arrangements would continue to operate.

Costs

The ACMA had determined that maintaining the status quo is not a feasible option given the findings of the RTC Inquiry as well as existing consumer and industry costs incurred as a result of current poor customer care practices under the 2007 Code.

The ACMA analysis indicates that consumers incur over a billion dollars per annum in costs as a result of the “wrong contract” problem,[31] over- and under-utilisation of their plan and loss of productivity incurred in initiating consumer complaints. Industry also continues to bear the costs associated with increasing customer complaints and costs of writing off bad debts – a large proportion of which stems from included value plans and the confusion that consumers face around charging arrangements.[32]

Both the RTC Inquiry and the industry initiated code review have proposed changes to the Code and it is acknowledged by all stakeholders that regulatory change is necessary to address current code deficiencies. The ACMA has determined that it is necessary to undertake regulatory reform and that to defer action to some future point in time would likely increase the cost of implementation for industry and continued losses experienced by consumers.

Option 2: Revised industry code

The ACMA has consulted with Communications Alliance to determine the likely costs of implementing the new obligations under option 2. Communications Alliance has provided estimates of initial and recurrent costs in the table below. Estimates have been provided based on input from Communications Alliance’s members. See table A for estimated costs.

[31] See Attachment A for ACMA analysis.

[32] Crikey, August 2010, http://www.crikey.com.au/2010/08/13/364m-bad-debts-help-drag-telstra-shares-to-all-time-low/

Table A - Estimated costs to suppliers of proposed new obligations under option 2 [33]

New obligations for suppliers	Estimated Cost (Inclusive of GST)	
Advertising and critical information summaries	Initial ($)	Recurrent ($) per annum
Introduction of standard "critical information" summary requirements	$1.302M	$4.372M
Introduction of additional provisions regarding content in advertising including unit pricing information and phase-out of the term 'cap'	$1.062M	5% to 10% additional incremental cost for unit pricing
Billing		
Reduction in back-billing period	N/A	N/A
Widening of billing provisions to apply to prepaid services	$0.864M	N/A
Introduction of a right to free-of-charge historic billing information for 24 months	$1.860M	$1.260M
Establishment of additional bill content and itemisation provisions, including total amount of the bill for each of the two previous billing periods for Included Value Plans	$14.124M	$0.600M
Expenditure management tools		
Introduction of voice call, SMS and data usage notifications	$22.704M	$90.720M
Credit management		
Increased obligations for suppliers concerning customers who experience financial hardship	$0.120M	$0.120M
Complaints-handling		
Tighter timeframes for complaint acknowledgement and resolution including a special process for urgent complaints.	$5.402M	$0.180M
Obligations to advise customers of complaint outcomes	$0.645M	$0.750M
More explicit promotion of TIO	$0.630M	$0.630M
Obligation to give customers a unique reference number	$0.240M	$0.264M
Compliance and monitoring		
Creation of Communications Compliance (CC) body	$0.057M	$.002M
Ongoing management of the CC including any planned staff dedicated to the new body	$0.076M	$0.621M
Development of metrics to report on service suppliers	$0.010M	$0.008M
Mandatory compliance attestation by suppliers	$4.924M	$2.342M
Estimated total cost for new supplier obligations	**54.02M**	**101.869M**

[33] See Attachment C for assumptions made by Communications Alliance to determine best estimate costings.

**plus 5% to 10% additional incremental cost for additional advertising information unit pricing*

Advertising and critical information summaries: the supplier costs associated with improved advertising and pre-sale practices will be the development costs of creating new advertising guidance, and vetting marketing material to meet new supplier obligations and preparation of critical information summaries.

Billing: the supplier costs associated with improved billing practices will be software development costs of changing bill formats in relation to itemisation and back billing periods. There may also be additional costs to any suppliers who do not already offer a free bill payment channel.

Expenditure and management tools: the supplier costs associated with developing expenditure and management tools for customers will involve software development costs to adapt and integrate ICT / software systems in order to provide for spend notification alerts to customers. It would also include the on-going costs of maintenance.

Credit management: the supplier costs associated with implementing new credit management safeguards will be the initial costs associated with improvements of internal policy procedures in relation to financial hardship policy including training of staff, development of new documents and website changes.

Complaints-handling: the supplier costs associated with introducing new complaints-handling procedures are the costs associated with developing new policy and procedures documents and staff training.

Code compliance and monitoring cost

The establishment and operating costs associated with establishing an industry monitoring body, Communications Compliance, will be funded by industry

Industry benefits

It is likely to expect that some of the industry costs identified above will be offset by the benefits gained as consequence of implementing option 2.

For example, as part of the RTC Inquiry, the ACMA undertook data analysis to estimate some of the current costs that suppliers incur as a consequence of bill shock that is a cost to suppliers as well as for consumers. The ACMA assessed these costs as a consequence of the bad debts that the industry writes off due to the inability of customers to pay their bills – a large measure of which is associated with the prevalence of “bill shock”. [34]

The ACMA shows the average bad debt estimates of suppliers unable to collect payment as $115 million per annum[35].

The RTC Inquiry also found that there are other suppliers costs associated with current poor customer care practices. These include:

- costs and time spent in dealing with consumer complaints;
- costs for commissions paid to sales staff for services later cancelled;
- reduction in revenues due to poor customer retention and low customer loyalty;
- loss of reputation of the supplier in the marketplace; and
- the cost of re-work activities, fixing problems or correcting mistakes.

Option 2 would therefore provide some benefits for suppliers to reduce the level of risk of the effects of bill shock and other on-going costs under the present Code regime.

Impact on Business Competition

Telecommunication suppliers have been operating under the 2007 Code since it was registered by ACMA in May 2008. During this time, telecommunication revenue has steadily grown from approximately $37.3 billion in 2007 to over $40 billion in 2011.[36] The number of suppliers has remained relatively constant according to TIO statistics, at approximately 1,231[37] in 2007 and 1,214 members recorded by the TIO in 2011.

The new safeguards proposed under option 2 are about improving the transparency and accuracy of information in the market place so that consumers are better informed about their choices when purchasing and managing their products. As such, the new supplier obligations proposed under option 2 are about affecting cultural reforms in the telecommunications industry. The new consumer safeguards– improving advertising practices, disclosure of standardised pricing information, consumer access to spend management tools and greater accountability in complaints-handling procedures may

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[34] Wireless broadband-related ‘bill shock’ has cost Telstra as much as $90 million in the 2010 financial year through the company’s having to waive fees or write off debts owed by customers who refuse to pay their bills. Detailing the costs at a media briefing following the company’s full year financial results, Telstra chief executive, David Thodey, claimed there had been a mismatch between customer’s understanding of the upfront cost of wireless plans and the additional fees associated with excess data downloads. August 2010. http://www.computerworld.com.au/article/356745/bill_shock_cost_telstra_up_90_million/

35 Refer to Attachment A for ACMA analysis.

[36] BuddeComm, Australian Fixed and Mobile Telecommunications Statistics, 5th Edition, November 2011 (note all financial data is calculated on a June year-end.

[37] TIO 2007 Annual Report, TIO Member List as at June 2007

also provide market incentives to drive improvements in areas that are of importance to consumers.

The ACMA has considered the impact of new supplier obligations that both options would have on large and small suppliers. The ACMA has agreed with Communications Alliance that grace periods will be provided to industry for implementation of the new supplier obligations under option 2. In addition, smaller suppliers will be given longer timeframes to implement spend management tools than larger suppliers. Smaller suppliers will have up to 24 months to implement expenditure notification alerts for voice and SMS usage as compared to 12 months given to larger suppliers.

Impact analysis: Consumer

The aim of the Code revision is to provide greater consumer protections in areas that have not been operating effectively in addressing the underlying issues of consumer complaints. Option 2 would provide the following consumer benefits.

Advertising and pre-sales information
The implementation of improved advertising practices and provision of standardised critical information summaries will greatly improve transparency of pricing charges and other product features that will allow for easier comparisons so consumers are more likely to match a product to their needs. The introduction of these safeguards at the front end of the customer lifecycle will likely lead to a reduction in the prevalence of "bill shock".

Expenditure and data usage tools
The implementation of improved spend management tools will assist customers to monitor and track their usage. The new safeguards to provide customers with expenditure alerts at threshold points (i.e. 50/85/100 per cent) will likely allow them to better manage their plan and again reduce the prevalence of bill shock. It would also likely lead to customers better utilising and getting maximum value out of their included value plans.

Credit Management
The implementation of improved credit management safeguards will benefit customers affected by financial hardship, especially those that are vulnerable including the elderly, disadvantaged and young people.

Complaints-handling
The implementation of improved complaints-handling safeguards will provide consumers with more certainty about what they can expect once they have contacted their supplier with a complaint – both in terms of complaint resolution timeframes as well as accountability. Introducing new safeguards that ensure all suppliers comply with their policies and procedures will lift the minimum requirement that industry currently provides and also make it easier for consumers to know their rights, or to seek redress through the TIO.

Code compliance and monitoring
The implementation of a Communications Compliance monitoring body to establish industry benchmarks so that service suppliers' performance levels are monitored and breaches reported to the ACMA (or the TIO) will provide an additional safeguard to ensure that industry complies with the new (and existing) supplier obligations. This safeguard also addresses the concerns of the RTC Inquiry that noted there was no widespread culture of code compliance among suppliers and the only instances where code breaches had surfaced was through the complaint mechanisms set up by the TIO and the compliance work undertaken by the ACMA.[38]

[38] Ibid, pg 25.

Summary of analysis

The ACMA does not consider option 1 viable as the 2007 Code has proven inadequate to address community safeguard issues and there are significant ongoing costs to the consumer and to the industry.

While it is hard to provide definitive quantitative benefits of the expected gains for consumers under option 2, it is expected that the introduction of minimum safeguards for advertising practices, critical information summaries, expenditure management tools, improved complaints-handling processes and improved credit management processes will reduce the ongoing and hidden costs that consumers (and industry) incur.

The ACMA considers the benefits of option 2 outweigh the costs because the additional consumer safeguards will mitigate against the risk of the underlying customer care issues such as bill shock, inadequate product, pricing information disclosures and management spend tools that would provide consumers with a more informed basis to choose and manage their telecommunication products/plans.

It has been shown that in the absence of intervention, there are existing costs imposed on consumers, industry, the TIO and the regulators. It is the potential of reducing these significant costs, such as the estimated $1.4 billion dollar per annum costs associated with consumers choosing inappropriate plans and under-utilising/over- utilising their plans where the impact will be most significant. Even a small reduction in these significant costs under option 2 is likely to be of considerable benefit to consumers and the industry overall.

By introducing new supplier obligations under option 2, industry would need to invest in and implement new measures that address the underlying issues of poor customer care practices instead of dealing with it as a consequence or poor practices – especially in association with mobile phone services.

The additional supplier obligations to introduce expenditure management tools for consumers under option 2 will allow customers to monitor their usage and will assist to manage the problem of bill shock that is a cost for consumers as a result of the lack of transparency of ‘included value plans’. As bill shock is estimated to cost the industry $113 million per annum in bad debts under Option 1, adopting measures to reduce the risk of bill shock will also be beneficial for industry.

In addition, the potential for reducing costs stemming from other areas of poor customer care practices, such as the collective costs to consumers, industry and the TIO of dealing with telephone customer complaints estimated on average at $108 to $216[39] million per annum, is of significance for all stakeholders.

CA has provided estimated costs associated with implementing the industry revised code and these have been estimated at approximately $54 million in initial costs and approximately $102 million per annum in recurrent costs.

In order that the costs associated with implementing the additional code provisions under Option 2 is manageable for industry, the TCP Code provides grace periods for some provisions to assist larger and smaller suppliers to cope with cost pressures. The following grace periods will apply:

- Six months to introduce critical information summaries;
- Six months to introduce new information about previous usage on bills;

[39] Refer to Attachment A ACMA analysis.

- 12 months for all suppliers to introduce usage alerts for included value and post-paid broadband plans and for large suppliers to introduce usage alerts for voice and SMS services ; and
- 24 months for small suppliers to introduce usage alerts for voice and SMS services for included value plans.

Consultation

Extensive public and industry consultation processes were undertaken during both the Communications Alliance code review process and the RTC Inquiry. The RTC Inquiry was conducted under Part 25 of the Act and took an evidence-based approach to examine the issues of customer care practices in the telecommunications industry. The ACMA commissioned four research projects to assist in developing the evidence-base[40] as listed below (see Attachment B for key project findings).

- Roy Morgan Research into community research of customer experiences in the industry;
- Behavioural research examining the drivers of consumer dissatisfaction causing consumer complaints;
- Performance metrics research relevant to customer service and complaints-handling; and
- Research that examined external dispute resolution schemes and systemic issues, mainly focused on the TIO scheme and process.

The ACMA published a consultation paper in July 2010 and sought written responses from stakeholders and the general community. The ACMA's aim was to canvass a diverse range of community viewpoints to further inform itself on the experiences of consumers in the telecommunications industry. Invitations to the public to make comment were published in the Australian newspaper and on the ACMA RTC website.

The RTC Inquiry received a total of 135 submissions with nearly 100 submissions from individual consumers. Other stakeholders included:

Stakeholders	**Agencies/Bodies**
Consumer groups	Australian Communications Consumer Action Network (ACCAN) Chair of Telecommunications Consumer Group SA Inc CHOICE Consumer Action Law Centre Country Women's Assoc Women with Disabilities Australia Deafness Forum Australia Deaf Society of NSW Consumer Credit Legal Centre(NSW), Redfern Legal Centre Credit line Financial Counselling Services, Wesley Mission Financial Counsellors' Association of Queensland Inc. Isolated Children's Parents' Association WA National Children's and Youth Law Centre Central Land Council Queensland Consumers Assoc., Financial and Consumer Rights Council Brotherhood of St Laurence, Footscray Community Legal Centre Federation of Ethic Communities' Councils of Australia Financial Counselling Australia Consumer Utilities Advocacy Centre

[40] Research findings can also be accessed at the http://www.acma.gov.au/scripts/nc.dll?WEB/STANDARD/1001/pc=PC_312222

	Consumer Action Law Centre, Law Council of Australia Care Inc COTA Australia, Novita Children's Services, Rainworth State School Parents & Citizens' Association Salvation Army Balance Telephone Financial Counselling Uniting Care Wesley Bowden Telephone Information Service Standards Council
Industry	VHA, Internode Telstra Macquarie Telecom MyNetFone, Optus Primus Communications Alliance / Australia Mobile Telecommunications Association (joint submission)
Regulators	ACMA, ACCC, TIO, SA Minister Consumer Affairs
Government	Department of Broadband, Communications and the Digital Economy

Public hearings were conducted by the ACMA in Sydney, Melbourne, Adelaide, Townsville and Launceston during October and November 2010. Verbal submissions were received from representatives of industry, consumer groups, individual consumers, the TIO and the chief ombudsman from the Financial Ombudsman Service.

In June 2011, the ACMA published a draft report on its website – informed by the feedback it had received through its consultation process and invited further comment before finalising the official report. The final RTC Inquiry report was published in September 2011. The recommendations in the RTC Inquiry report provided the basis for the ACMA to issue the section 125 notice to Communications Alliance to address code deficiencies on 9 September 2011.

As stated above, Communications Alliance undertook its code review process with the establishment of a steering group comprised of an independent chair, representatives from the regulators, industry, consumer groups and government. In addition, six working committees, each made up of industry and consumer representatives were appointed to revise individual chapters of the existing Code and to report to the steering group. The steering group and working groups comprised of:

SG: Stakeholders	Agency/Bodies
Consumer groups	ACCAN Consumer Law Centre
Industry	Telstra, Primus, CA
Regulators	ACMA, ACCC

Government	Department of Broadband, Communications and the Digital Economy
WG:Stakeholders	**Name of Organisation**
Consumer Group	ACCAN Australian Council of Social Service Communications Law Centre Legal Aid QLD Financial Counsellors Association QLD MacArthur Community Legal Centre Women with Disabilities Australia
Industry	MyNetFone, Optus, Primus, Community Telco Australia Telstra, Vodafone Hutchison Australia Internode, Internet Society Australia

A draft revised Code was developed through this process and Communications Alliance invited the public to provide feedback on the draft copy. Invitation to comment on the draft Code was announced in *The Australian* on 25 October 2011 and Communications Alliance invited the public to access the document and make submissions via its website by 25 November 2011. Notifications were also provided through its membership newsletters and email alerts sent to relevant consumer, government and associations.

Communications Alliance received 17 formal submissions during the public consultation period with a majority of these from industry suppliers and government bodies including:

Submissions	**Agency/Bodies**
Consumer groups	Community Information Victoria, Consumer Action Law Centre Vision Australia ACCAN National Ethnic Disability Alliance Western Port Community Support NSW Farmers Association
Industry	Internode Vividwireless Beagle Internet EscapeNet Optus VHA Dodo
Regulators and Govt.	TIO ACCC

Stakeholder Views

Industry

The larger telecommunication service suppliers, such as Telstra, Optus, VHA and smaller suppliers such as Dodo, Beagle Internet and EscapeNet provided input into the code review process undertaken by Communications Alliance. Industry has acknowledged that a revision to the Code is timely and that there are obvious areas that need to generate better industry practice.

There is general consensus from industry that the introduction of spend management tools and usage notifications to customers of included value plans will be helpful to alert them when they have neared their allocated or monthly spend and where ongoing usage (either call, SMS or data downloads) over their allocation may attract additional or increased fees. Therefore while recognising the merits of introducing spend management tools, industry has indicated that consideration be given to a longer implementation timeframe due to the investment to build the platform and its expansion to various categories of included value mobile and broadband plans. Industry has also indicated that this consideration of longer lead times be applied to areas involving software system changes such as changes to billing formats.

TIO

The Telecommunications Industry Ombudsman (TIO) noted that the industry revised code is an improvement on the 2007 Code and that the TIO is satisfied with the new safeguards proposed though there are areas that would benefit from clarification. The TIO was satisfied that Communications Alliance had extended the timeframe under which consumers may receive billing information at no cost, providing greater detail on what suppliers must do to minimise the impact on consumers after the sale of a supplier's business or a supplier re-organisation, and additional disclosure of critical information. The TIO considered that more information was needed on Communications Compliance. Additionally, there were some areas where consumer safeguards could be improved such as unauthorised transfers and over commitment policies.

ACCAN

The Australian Communications Consumer Action Network (ACCAN), a peak telecommunications consumer group, also acknowledged that the changes in the industry revised code were positive, especially in the areas of critical information summaries, additional information to provide for usage comparisons, access to expenditure tools and notification alerts and some improvements in the advertising practices. ACCAN considered there were still outstanding issues that industry should address including inclusion of volumetric data in advertisements, extending advertising improvements beyond large text advertising. ACCAN also considered that there were insufficient measures in place to detect non compliance for the new proposed compliance and monitoring framework.

ACCC

The ACCC agreed with all the recommendations of the RTC Inquiry and went further to comment that that any changes to the Code should contain enforceable rules and be supported by an enforcement framework that allowed for more timely detection of serious non-compliance issues. It supports the introduction of spend management tools and agrees that it will be a significant consumer protection against bill shock. It also supports changes to improve pre-sales information disclosures so that consumers have access to comparable information to aid plan comparisons.

The ACCC also supports any changes to improve the industry's advertising practices.

It strongly agreed with the RTC Inquiry concerning the ongoing consumer confusion and detriment over included value plans needed to be addressed by having suppliers disclose standardised unit pricing in all text-based advertisements. The ACCC further noted that the disclosure of volumetric data should also be included as it would further aid consumers in plan comparisons and suggested that these additional disclosures of pricing information should apply to all types of advertisements including small and large print advertisements, billboards, posters, third party websites and television.

The Office of the Australian Information Commissioner's comments focused on enabling the industry to use the code to comply with the National Privacy Principles.

Conclusion and recommendation

The ACMA considers option 2, to accept the industry revised code, to be the preferred option. Option 2 meets the key objectives recommended by the RTC Inquiry. The consumer protection safeguards will significantly improve the transparency of unit pricing information and its disclosure in text-based advertising material and in critical information summaries. It will introduce spend management tools to allow consumers to better manage their usage products and improve the complaints-handling process so suppliers are held more accountability to assurances and promises made.

These measures collectively undertaken have the potential to reduce the estimated $1.48 billion dollars per annum associated with consumers choosing the wrong contract (problem) as well as reduce the estimated $113 million that the industry yearly incurs in bad debts as a result of lack of transparency of ‘include value plans’ usage charges that many consumers find hard to comprehend.

While the ACMA considered the alternative mechanism to make an industry standard, would introduce two additional supplier obligations around advertising, it was not clear that the likely marginal benefits to be gained would outweigh the costs. The alternative mechanism would also require a longer timeframe to implement, as under the Act. That is, in order for the ACMA to move to an industry standard, it would have to undertake additional processes and consultation requirements. This would mean that the majority of new consumer safeguards would be delayed and this may disadvantage consumers.

The ACMA considers that while telecommunications suppliers would incur costs to implement the new obligations under option 2, the overall estimated cost to the industry (of about $54 million in initial costs and approximately $102 million per annum in recurrent costs) would be outweighed by the expected gains to consumers and industry. For example, even a small reduction in the estimated $1.4 billion dollar per annum costs associated with consumers choosing inappropriate plans (i.e. the wrong contract problem) is likely to be of considerable benefit to consumers under option 2.

In addition, some of the implementation costs incurred by suppliers would be reduced in the medium to longer term by the savings gained as a result of implementation, such as industry having to allocate fewer resources in rectifying consumer complaints.

Implementation and review

Implementation

The ACMA intends to register the industry revised code *Telecommunications Consumer Protections Code 628:2012* as outlined in option 2 and in accordance with section 117 of the Act. The Code is expected to be registered by the ACMA at the Authority meeting of 5 July 2012 and if registered will commence on that date. The new Code will be reviewed in two years or earlier in the event of significant relevant developments.

Upon registration of the new Code, telecommunication suppliers will have a grace period of:

- 6 months to introduce critical information summaries;
- 6 months to introduce new information about previous usage on bills;
- 12 months for all Suppliers to introduce usage alerts for included value and post-paid broadband plans and for Large Suppliers to introduce usage alerts for voice and SMS services ; and
- 24 months for Small Suppliers to introduce usage alerts for voice and SMS services for included value plans.

All other obligations commence upon registration.

Review

The ACMA intends to continue monitoring complaints to the TIO about telecommunications services and expects to actively respond to breaches of the industry revised code. It will also provide advice about the formation of the new monitoring regime to ensure that the new entity, Communications Compliance, is a substantial and robust regime that augments the current compliance and monitoring framework.

Communications Alliance will conduct workshops to provide its membership with information about the new Code and it will also be promoted through the peak industry body website.

Attachment A: ACMA Analysis

The ACMA used the following data analysis to inform the Reconnecting the Customer (RTC) Inquiry in July 2011

Table 1: Estimated costs to customers associated with the "wrong contract" problem (i.e. due to complexity of advertising and pre-sales material).[41]

	2009-10	2010-11	2011-12
Total *(Inflation Adjusted)*	$1.525B	$1.479B	$1.435B

Data and assumptions

UK price comparison website Bill Monitor[42] carried out statistical analysis on 28,417 UK bills and estimated that UK consumers waste £2.62 billion per year through being on an account where the tariff is too large for them, with many using just one-quarter of their monthly allowance. Based on the figure of 75 million mobile subscriptions in the UK, the average annual waste comes to approximately £35 per capita.

Assuming that a similar amount of waste in Australia (which may be a conservative assumption, given the far lower rate of complaints made in the UK[43]), this figure can then be extrapolated for the Australian market. In 2009-10 (all data is 2009-10) Australia had close to 24.2 million mobile subscribers, meaning that the total amount of money wasted for 2009-10 was approximately $1.53 billion.

The exchange rate used was $AUD1 = £GBP0.55, which was found to be the average for 2009-10.

It should be noted that the ACMA used the estimate of the waste associated with only those consumers that are on plans too large for their usage, in order to avoid double counting with the estimates of the costs of "bill shock" (i.e. those that are on plans that are too small). This is also consistent with the aim to remain conservative in these estimates.

The extent to which this falls depends upon the effectiveness of the intervention. With such a small amount of information, it is not possible to determine how effective the intervention may be.

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[41] The ACMA used a three-year geometric mean of forecast inflation from the Statement of Monetary policy from the Reserve Bank of Australia (RBA), which came to 2.75 per cent. Feb 2011, Statement of Monetary Policy – Economic Outlook (http://www.rba.gov.au/publications/smp/index.html)

[42] http://www.billmonitor.com/

[43] The combined complaints and enquiries received by telecommunications dispute resolution schemes in the UK were 118,417 in 2009-10. There were approximately 75.75 million mobile subscribers in 2009-10 (Vodafone Sees Loss of UK Market Share and Lower ARPUs" - http://www.cellular-news.com/story/37159.php?s=h) This compares to Australia where the number of complaints and enquiries received by the TIO in 2009-10 was 208,995. Given that the UK has approximately three times as many people in Australia, and the UK experiences many similar problems as Australia, it would seem that the comparison is more that reasonable.

Table 2 - Estimated Costs of telephone complaints to Consumers and Industry (2010-2013)[44]

	Stakeholders	Low Bound	High Bound
2010 - 2011	Customer	$10.329M	$41.318M
	TIO Budget	$22.455M	$22.455M
	Industry	$58.655M	$117.311M
	Total *(inflation adjusted)*	**$107.509M**	**$213.172M**
2011-2012	Customer	$10.537M	$42.149M
	TIO Budget	$22.907M	$22.907M
	Industry	$56.626M	$113.253M
	Total *(inflation adjusted)*	**$108.537M**	**$215.140M**
2012 - 2013	Customer	$10.689M	$42.757M
	TIO Budget	$23.237M	$23.237M
	Industry	$54.364M	$108.729M
	Total *(inflation adjusted)*	**$109.040M**	**$216.064M**

Data and assumptions

Number of complaints

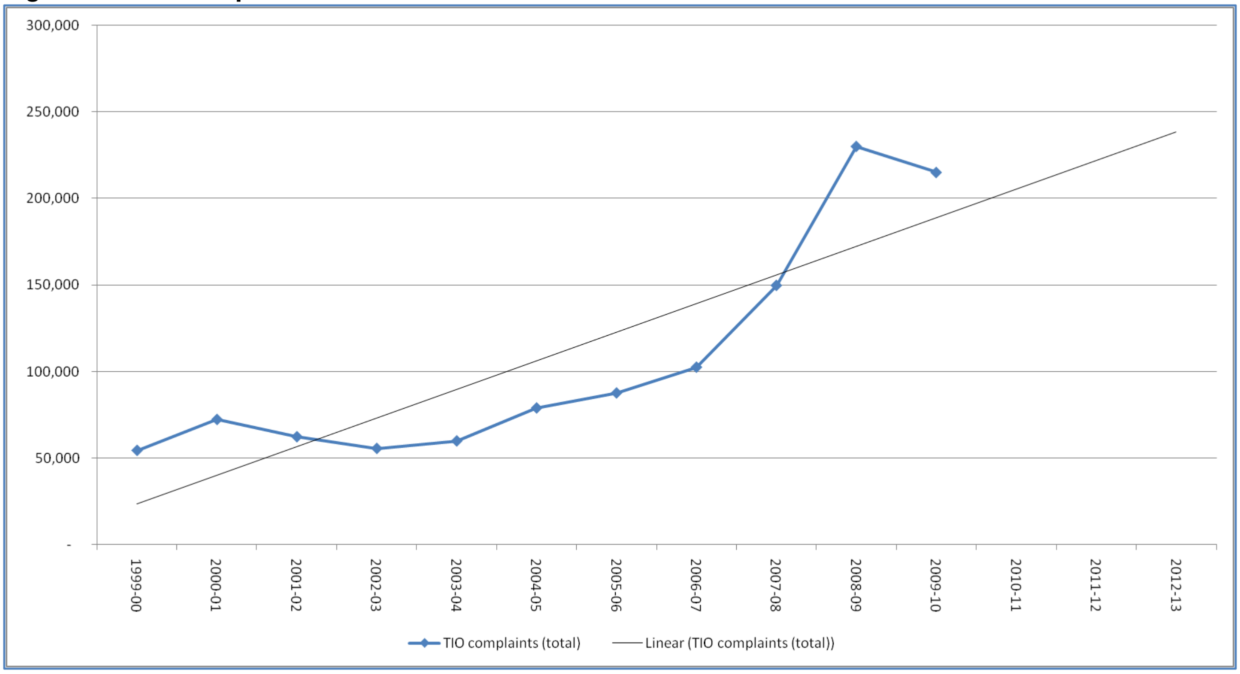
ACCAN research conducted by Galaxy suggests that 6.4 million Australians aged 16 years and over made a complaint to their telecommunications supplier in the year prior to November 2010[45].

In order to forecast future costs, it is necessary to determine whether complaints in 2010 are likely to be a good guide to the expected number of complaints in future years. To inform this, the ACMA examined historic TIO complaints data for the past ten years and assumed that TIO complaints represent a constant proportionate of total complaints in recent years (see Figure 1).

The trend line indicates an overall increase in complaints over that time, and a more pronounced increase in complaints over the last three-to-four years. It is not clear whether the rate of increase observed in the last few years will continue. To avoid overstating expected benefits we've used all available historic TIO data to forecast a linear trend.

[44] The ACMA used a three-year geometric mean of forecast inflation from the Statement of Monetary policy from the Reserve Bank of Australia (RBA), which came to 2.75 per cent. Feb 2011, Statement of Monetary Policy – Economic Outlook (http://www.rba.gov.au/publications/smp/index.html)
[45] ACCAN/Galaxy research conducted during the weekend of 5-7 November 2010, on 1,100 people aged 16 years and over, across Australia. Of this, 55% of the respondents experienced a problem with their phone or internet supplier in the last 12 months, http://www.accan.org.au/files/News%20items/Galaxy%20Research%20Fact%20Sheet.doc

Figure 1 - TIO complaints and linear trend line



Source: TIO, ACCAN/Galaxy Research, ACMA calculations

Cost to consumers of complaining

Consumers incur costs in making a complaint. A key element of those costs is likely to be the time involved.

In considering the cost to consumers, the ACMA took account of only the cost of the time consumers spend in making complaints. It is assumed that each customer spends an average of 15 (lower bound) to 30 (upper bound) minutes per complaint.[46]

The 'value of time' of customers is assumed to be between 25 per cent to 50 per cent of average hourly wages. This equates to a range of $8.05 (lower bound) to $16.10 (upper bound) in 2010. In each subsequent year these rates are increased at the rate of inflation. The value of time is a common input into cost/benefit modelling. The Australian Bureau of Statistics states that the average hourly wage is $32.20.[47] It is conservative to assume that the average value of time of customers is less than the average hourly wage. Arguably it may be as high as the average hourly wage.

Costs to telecommunications firms

[46] This was deemed reasonable because many complaints require several calls to the telecommunications company, and subsequent calls to the TIO.

[47] *Victorian Transport Policy Institute, Transportation Cost and Benefit Analysis Techniques, Estimates and Implications [Second Edition],* http://www.vtpi.org/tca/, 16 March 2011, chapter 5.2, page 5.2-4. Personal cost is described as 'travel during which travellers experience significant discomfort or frustration, such as driving in congestion or pedestrians and transit passengers in uncomfortable conditions'. Transport studies estimate personal travel time at 25 percent to 50 percent of prevailing wages, but vary by factors such as type of trip, traveller and conditions. This assumption was supported by discussion of the value of time in Cost-Benefit Analysis, concepts and practice, 3rd edition. pp 415-417. Average hourly wage was taken from the Australian Bureau of Statistics (6306.0 - Employee Earnings and Hours, Australia, May 2010, http://www.abs.gov.au/ausstats/abs@.nsf/mf/6306.0/)

Firms have different approaches to complaints handling and resolution, and the cost per complaint will vary across firms. The cost per complaint is likely to reflect salary and operating costs, and fixed costs associated with facilities required to support the complaints handling arrangements.

The value of time is assumed to be equal to the average hourly wage ($32.20 in 2010). [48] It is assumed that operating costs and fixed costs per employee result in an average hourly cost to firms of 50 percent higher than the average hourly wage. Therefore, the estimates outlined in table 3 are based on an average cost to the telecommunications industry of $18 to $37 per complaint.

Of the total number of complaints calls received by firms, some will be dealt with in a single interaction between the caller and the representative of the firm first contacted. A significant number may require the firm representative that is the first point of contact to engage with other areas within the firm to resolve the complaint. For the purpose of this analysis it is assumed that 20 percent of calls to telecommunications companies resulted in the person taking the call referring the query to another person to resolve. This increases by 20 percent the average time per complaint to telecommunications companies (from the 15 (lower bound) to 30 (upper bound) minutes per complaint).

Costs to TIO

The estimates in table 3 include the estimated costs of complaints handling to the TIO based on TIO actual costs. The estimated costs assume the cost per call increases at the rate of inflation.
According to the 2010 Annual Report, the TIO received around 215,000 complaints in FY 2009-10. Annual TIO revenue from complaint handling fees was $27,785,004 or around $130 per complaint.[49].

What proportion of costs of complaints handling are due to market failure?

Not all of the complaints received by the telecommunications firms or the TIO will be the result of the problems identified by the RTC Inquiry. It is reasonable to expect that there would be some complaints even without market failure and the ensuing problems. The potential benefits of intervention in this area is therefore the elimination of the excess costs suffered as a result of the market failure.

To determine the costs of complaints arising from market failure. it is necessary to form a view on the number of complaints (and the proportion of total costs) that might exist in the telecommunications sector in the absence of market failure. This is best guided by considering the number of complaints observed in other sectors in Australia providing ubiquitous services, with potentially similar levels of complexity in the service offering.
The ACMA has reviewed data relevant to other sectors. The results are summarised in table A. In each case we assume the ratio of complaints to the relevant industry ombudsman to total complaints in the sector is comparable to the ratio of TIO complaints to telecommunications complaints.

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[48] The Australian Bureau of Statistics (6306.0 - Employee Earnings and Hours, Australia, May 2010, http://www.abs.gov.au/ausstats/abs@.nsf/mf/6306.0/) gives an average hourly wage for Call or contact centre information clerks of $26.30, but this may understate average hourly wage of staff involved in complaints handling and trouble shooting. It seems more appropriate to use the economy wide average hourly wage
[49] TIO 2010 Annual Report, http://www.tio.com.au/publications/annual_reports/ar2010/pdfs/TIO_2010AR_FinancialStatements.pdf p 88. TIO revenue from complaint handling is based on fees levied on firms on a per complaint basis. The fees are intended to reflect the costs incurred by the TIO in handling complaints.

Table A: Proportion of complaints to sector specific Ombudsman (2010)[50]

	No of complaints	Year	Reference pop ('000)	Complaints/1000 pop
Telecommunications Industry Ombudsman	212,000	2010	22,342.4	9.5
Financial Ombudsman Service	23,790	2009-10	22,342.4	1.1
Health Insurance Ombudsman	2,618	2009-10	11,618.0	0.2
Credit ombudsman	1,154	2009-10	22,342.4	0.1
Superannuation complaints tribunal	2,481	2009-10	22,342.4	0.1
Energy and Water Ombudsman NSW	15,048	2009-10	7,238.8	2.1
Energy and Water Ombudsman VIC	38,430	2009-10	5,547.5	6.9
Energy Ombudsman Qld	11,129	2009-10	4,516	2.5

As shown in the table above, there are two sectors that appear to be outliers, recording an unusually high proportion of complaints: the telecommunications sector and the energy and water sector in Victoria. The average number of complaints per 1000 people across other sectors is 0.8.[51] Given this, we assume that in the absence of the problems identified in the RTC Inquiry, it might be reasonable to expect complaints in the telecommunications sector would fall to around 10% of their current level. Therefore, the market failure variance has been factored into the analysis.

Table 3: Estimated Industry costs associated with the occurrence of "bill shock" (2009-2012)[52].

[50] Sources:

http://www.phio.org.au/downloads/file/PublicationItems/PHIO2010AR_LR_Complete.pdf

http://www.cosl.com.au/Resources/COSL/Files/Media%20Release%20-%20Issue%2014.pdf

http://www.sct.gov.au/downloads/Annual%20Report%202009-2010.pdf

http://www.ewon.com.au/ewon/assets/File/Media_Releases/2010_AR0910_MR.pdf

http://www.ewov.com.au/Publications/Annualreports/EWOV-Annual-Report-2010.aspx

http://www.eoq.com.au/zone_files/Corporate_documents/eoq-annual-10-final_(online_version).pdf

http://www.ahia.org.au/Health%20Insurance%20Statistics/PropnPHICoveragebyStateQtr31122010.pdf

[51] The average number of complaints per 1000 people if the water and energy sector is included is 1.8.

[52] The ACMA used a three-year geometric mean of forecast inflation from the Statement of Monetary policy from the Reserve Bank of Australia (RBA), which came to 2.75 per cent. Feb 2011, Statement of Monetary Policy – Economic Outlook (http://www.rba.gov.au/publications/smp/index.html)

	2009-10	2010-11	2011-12
Total *(Inflation Adjusted)*	$117.000M	$113.498M	$113.129M

Data and assumptions

According to media reports, in the 2009-2010 financial year, Telstra incurred “$70 to $90 million” in self-inflicted bad debts[53]. According to chief financial officer John Stanhope, Telstra wrote off "$70 million to $90 million" in debts that either could have been prevented or could be prevented in the future by simplifying internet and phone plans and making them more easily understood by customers.

According to the media reports:

Telstra chief financial officer, John Stanhope, said the costs – between $70 and $90 million of the company’s total $364 million bad debts charge for the year – had been “self inflicted” on Telstra’s behalf.

“What I mean by that is that…. The customer may be described a plan and when they get the first bill it is hard to understand or it doesn’t match the plan they thought they were going to get as described by somebody at the front of our house, or our agents,” he said. “Then, a dispute occurs with the bill.”

“We call it a ‘self inflicted’ bad debt, but then there are other things like excess usage charges and so on that occur and sometimes they can end up in dispute,” he said. “That is part of the $364 million and has been mostly in our consumer area. The rest is the normal delinquency of debt.”[54]

Telstra chief executive, David Thodey agrees:

“We have had an increase in bad debt as customers’ expectation of what they purchase and what they get isn’t quite right,” Thodey said. “We have seen some bill shock through larger wireless data costs, and people say, ‘hey, what’s going on here?’ So a lot of work to do in that area.”[55]

Analysis included in the Budde report indicates that Telstra still dominates the overall Australian telecommunications market with close to a 60 per cent market share, a figure it has consistently held for t the previous three years including in 2011.[56]

If we assume a similar rate of bad debt caused by other provider’s complex internet and phone plans, and utilise the conservative lower bound estimate of $70 million, then the likely amount of “bad debt” written off on an annual basis for the entire telecommunications market is $117 million.

The extent to which this falls depends upon the effectiveness of the intervention. With such a small amount of information, it is not possible to determine how effective the intervention may be.

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[53] For example, http://www.computerworld.com.au/article/356745/bill_shock_cost_telstra_up_90_million/
[54] *Ibid*
[55] *Ibid*
[56] A Buddecom Report, *Australia – fixed and mobile telecoms statistics November 2011 (5th edition)* pg. 1 and 2. Also referenced at http://www.budde.com.au/Research/Australia-Telecoms-Industry-Statistics-and-Forecasts.html

The ACMA notes that if the measures introduced are successful in reducing the occurrence and severity of bill shock, then consumers are likely to have one less reason for calling their provider. As a result, if we were to simply add the potential benefits associated with section 1(estimated consumer costs to be avoided due to lack of a ‘wrong contract problem) with those associated with section 2 (estimated consumer, industry and TIO costs to be avoided as a result of decrease telephone complaints), there may be some minor double counting. The ACMA would warn against undertaking such a calculation as these estimates are indications of the magnitude of the problem and thus indicative of the scale of benefits that may be achieved by fixing them, rather than estimates of the benefits of particular proposals.

Attachment B: Key findings from research projects

Research projects key findings that informed the RTC Inquiry

Roy Morgan Research[57] undertook community research into telecommunications customer service experiences and associated behaviours. The research objectives were to examine customer service and complaints-handling experiences and the impact of these experiences on the subsequent customer behaviour. The research included ten focus group discussions in metropolitan and regional locations including Sydney, Melbourne, Perth, Tamworth and Alice Springs. In addition, a national survey of 1,420 respondents who had contacted a service provider in the last six months.

The key findings of the research included:

Customers who contacted a carriage service provider (CSP) in the last six months:

- In the last six months, 57 per cent of respondents had contacted a CSP, with 55 per cent of this number aged 35 to 64 years.
- The most common telecommunication product to contact a CSP about was the internet (50 per cent), followed by mobile phones (41 per cent) and home phones (32 per cent).
- Of those people who contacted a CSP about mobile phone issues, the majority were mobile users on a contract, specifically on a contract with a cap plan (69 per cent).
- The most common reasons for contacting a CSP were technical problems (36 per cent), billing problems (27 per cent), and new products or services (24 per cent).

Main reasons for choosing CSPs

- People select a CSP because of price (46 per cent), network coverage (28 per cent), product range (20 per cent), customer service reputation (17 per cent) or bundling offers (17 per cent).

  The customer service experience
- The average number of contacts needed to address the most recently experienced CSP issue was three, while for two-thirds of respondents their issue required one or two contacts.
- The two reasons for contact that explicitly involved problems—technical and billing—were less likely than other reasons to be resolved on the first contact (38 per cent for technical and 35 per cent for billing). Technical and billing issues were more likely to see customers making more than five contacts (14 per cent for technical and 17 per cent for billing).

Customer satisfaction and causes of dissatisfaction with CSP customer service

- In terms of reasons for contacts, satisfaction with the CSPs was significantly lower among people making contact to resolve a billing problem.
- In terms of the particular telecommunication product, the lowest satisfaction and the most contacts were associated with bundled services.
- Among consumers who were not satisfied with the CSP's customer service (gave a rating of 5 or less),
  - In 76 percent of occasions, no further action—such as initiating a complaint process or switching CSPs—was taken because consumers viewed taking

[57] Research finalised in June 2011

action as long, difficult and time-consuming. People were 'too busy', while the longevity of a relationship with a CSP was another possible impediment.
    - While half of the respondents considered switching to another CSP, only six per cent actually did so.
- CSP satisfaction ratings rarely exceeded 7 on a zero to 10 scale ('very dissatisfied' to 'very satisfied'). Overall satisfaction with customer service by phone, in-person visits or via a website was between 6 and 6.5.
- For telephone contacts (most commonly used mode to initiate a complaint) satisfaction was highest for staff friendliness. Lowest ratings were given for staff availability and waiting time on a telephone queue.

Drivers of satisfaction with customer service

- The key drivers of customer service satisfaction across all modes of contact (including telephone) were: "being able to resolve issues in a reasonable time"; "follow through"; and "targeted personalised attention". These were important areas in which CSPs underperform. Analyses indicate that improvements in these areas would result in greater satisfaction with customer service.

Drivers of customer loyalty to CSPs

- Perceived "value for money" accounted for 40 per cent of loyalty and "customer service quality" for 37 per cent. These were the two most important drivers of higher order attitudes and behaviours such as repeat purchase, advocacy and overall satisfaction with CSPs.

Contacts with CSP complaints-handling departments and external organisations

- Of those customers who contacted a CSP in the last six months, eight per cent had dealt with the internal complaints department.
- A majority of respondents (47 per cent) did not know whether or not the CSP had a complaints-handling policy. Of those who were aware of and had read a provider's complaints-handling policy, contact with an internal complaints area was slightly higher at 12 per cent. The incidence of contact with the complaints department was higher among customers with billing issues (12 per cent) and even more so among those who were very dissatisfied (gave a rating of zero on the satisfaction scale) with the customer service they received during the contact (24 per cent).
- Of customers who contacted CSPs in the last six months, three per cent lodged a complaint with an external body. This incidence increased to 21 per cent of people who had contact with a CSP's complaint department.
- The majority of complaints lodged externally were with the Telecommunications Industry Ombudsman (TIO).

Dr Patrick Xavier[58] undertook research to examine the extent to which insights stemming from behavioural economics can contribute towards explaining the drivers of consumer dissatisfaction causing consumer complaints. The key findings of the research included:

- **Consider use of 'cooling-off' periods** during which customers can break contracts without penalty (as in the case of failure to deliver promised/advertised broadband speeds).
- **Consider use of 'opt-in' defaults** where the consumer has to express a desire for data roaming service, or to extend a contract that would otherwise terminate, rather than an 'opt-out' default.
- **Enhanced TCP Code provisions**. The regulator could seek to enhance the Telecommunications Consumer Protection (TCP) Code, but in this regard the evidence from experience is that industry has not demonstrated a commitment to comply with the Code. Thus, if this approach is to be used, the Code will have to

[58] Adjunct Professor of Economics and Finance, Curtin University Business School. Research finding finalised in May 2011.

be significantly strengthened, signatories widened and compliance ensured by robust enforcement.

- **Special attention to information needs of vulnerable customers would likely benefit other consumers as well.** Poor product choice resulting from inadequate/misleading information and complex products and services tend to have a disproportionately adverse impact on vulnerable disadvantaged consumers. Therefore the design of information disclosure should have the vulnerable in mind, especially because disclosure that does this will benefit other consumers as well since most, if not all, consumers want simplified better presented information.
- **Mandate a Customer Service Charter**. As in the case of the TCP Code, the question here is whether industry will demonstrate a commitment to comply with such a Charter. A Charter would help to focus consumer attention on their rights.
- **Mandate standards for advertising, marketing or promotions, including restrictions on use of terminology; 'headline' broadband speeds**. This approach would help in addressing an underlying cause of consumer complaints i.e., not clearly understanding a product or service, and thereby result in fewer complaints.
- **Mitigate risk of 'bill shock' by mandating expenditure management tools.** 'Bill shock' complaints could be reduced through a requirement that expenditure management tools be provided to consumers e.g., an SMS/e-mail alert when a customer nominated expenditure/usage has been reached, 'opting-out' of voice or data roaming or premium mobile services (PMS).
- **Install a performance reporting framework** which includes customer service metrics. A performance reporting framework that includes customer service metrics will focus more attention on customer service. It could assist consumers to include this aspect in the decision-making process if the information is presented in a way that is useful for consumers.
- **Facilitate switching to strengthen incentives for suppliers to improve customer service.** The ability and willingness of consumers to switch service provider is critically important in harnessing competitive pressure to help improve customer service.

Dr David Stewart and Mr Maurie Logan[59] undertook research of performance metrics relevant to customer service and complaints-handling in the Australian telecommunications industry. The key findings were:

- that should a performance reporting framework be implemented, that any service provider data provided by the provider as part of the reporting process (i.e. from call centres etc.) be independently audited to ensure the validity and reliability of such data; and
- that behavioural metrics have an important supporting role in a performance reporting framework.

Calluna Consulting[60] undertook research into external dispute resolution schemes and systemic issues. The key findings focused on providing recommendations to improve TIO reporting and processes.

[59] Research findings finalised in May 2011

[60] Research findings finalised in December 2010.

Attachment C: Cost estimates and assumptions

Assumptions made to determine best cost estimates of new supplier obligations under option 2 (table A, main report)

Advertising and critical information summaries

Introduction of standard "critical information" summary requirements

Assumptions made:

1. Additional printing and paper cost to provide the plan essential information at retails shop for all relevant products
2. Additional distribution cost to ensure material is available for Sales channels
3. Changes to IVR recording to capture plan summary information for Telesales Channel
4. IT development to ensure the Plan Essential is available for Online as well as Retail channels
5. Initial costs for system changes to automate distribution of Plan Essentials by Telephone Consultants
6. Recurrent costs includes the design/creative, printing, distribution and mailouts, staffing resources

Additional provisions regarding content in advertising including unit pricing information and phase-out of the term 'cap'

Assumptions made:

1. One-off change of existing plans
2. Changes to current advertising campaigns
3. IT changes to phase-out the term 'cap'
4. Changes to accommodate 'above the line' advertising only for large print

Billing

Reduce back-billing period*

Assumptions made:

1. Configuration only changes (No IT cost)

Widening of billing provisions to apply to prepaid services

Assumptions made:

1. Data feed changes to ensure the call records are available for all wholesale channels

A right to free-of-charge historic billing information for 24 months

Assumptions made:

1. Loss of revenue on bill reprints

Additional bill content and itemisation provisions, including total amount of the bill for each of the two previous billing periods for included value plans

Assumptions made:

1. No changes required for local telephony billing system as rate plans do not charge any excess fee.

Expenditure management tools

Introduction of voice call, SMS and data usage notifications

Assumptions made:

1. Cost to build the initial alert platform for post-paid plans
2. Cost to expand the existing solution to additional rate plans for remaining post-

paid mobile and broadband plans 3. Changes to existing system to ensure the alerts are triggered in line with the TCP code notification points 4. Require upgrade to usage feed to wholesale customers to support their compliance of usage alerts currency timeframes 5. Inclusion of assumed worst case revenue degradation per annum as a result of changes in customer usage behaviour once alerts implemented across the customer base. 6. - Provision of SMS alerts to residential mobile customers at 50/85/100% of usage.
Credit management
Increased obligations for suppliers concerning customers who experience financial hardship
Assumptions made: 1. Additional resources required due to increase volumes of hardship accounts as a result of the increased scope in the Code for Hardship accounts.
Complaints-handling
Tighter timeframes for complaint acknowledgement and resolution
Assumptions made: 1. Difficult to quantify given that effectively the timeframes are irrelevant to the day to day activity where all complaints are attempted to be resolved at the first call. 2. Assumes development of course content and six hours training for each consultant to cover relevant aspects of TCP Code and process issues 3. Additional staffing required - eight weeks of work to change the initial process 4. Additional staffing to support ongoing complaints 5. System rebuilding to deliver automation of complaint acknowledgement.
Obligations to advise customers of complaint outcomes
Assumptions made: 1. BAU and assuming that providers are not required to provide tailored responses to customers and provide advice on request 2. Includes cost for initial system change to provide automated email/letter acknowledgement. 3. Ongoing additional fulltime staff to handle impact to handling time per complaints of 5%.
More explicit promotion of TIO
Assumptions made: 1. Assume likely 20 per cent increase in complaints being handled at first call due to increased TIO awareness. 2. Assumes five per cent lift in headcount to manage five per cent increase in TIO costs. Estimated TIO fee increase included.
Obligation to give customers a unique reference number
Assumptions made: 1. System rebuilding costs and ongoing database service maintenance.

***Additional comment provided by Communications Alliance in reference to reduce back-billing period** : While the specifics in the TCP code can be, or have already been, introduced by some providers (e.g. extending back billing, accessing historical information, including total amounts for previous bills in current bill), it is important to recognise that industry has invested tens of millions of dollars in improving the design and information in the new bill (both print and online) so that it meets customers’ needs. Industry believes many of these changes go over and above the requirements of the TCP code. These changes form part of a program of work that will result in further improvements to the design of the bill and other end to end improvement to the customer's billing experience, which will be rolled out over the next 2/3 years. Customer consultation and research has formed a critical element of the billing improvement redesign process ongoing engagement with customers as further improvements are made is anticipated.

Assumptions made for best cost estimates of establishing and operating a Communications Compliance body.

Creation of Communications Compliance (CC) body
Assumptions made: 1. Initial costs are assumed to be Communications Alliance staff time and legal fees associated with establishing the structure and constitution of the organisation.
Ongoing management of the CC including any planned staff dedicated to the new body
Assumptions made: 1. Initial costs consist of creation of the web site, licensing of compliance tools, creation of collateral/branding and equipment. 2. Ongoing costs consists of office accommodation, communications and general office costs, staff costs (loaded), board fees & member sitting fees, travel, web-site maintenance, professional services , insurances and indemnity costs.
Development of metrics to report on suppliers
Assumptions made: 1. Initial cost assumes ten working days by executive director and five working days by administrative officer 2. Ongoing annual cost assumes five working days by executive director and ten working days by administrative officer
Mandatory compliance attestation by suppliers
Assumptions made: 1. In year one, eight large suppliers pay $30,000 each for external assessment and verification of compliance processes. 2. In year one the eight large providers dedicate 20 days of management time at an average of $461 per person per day (Assumes $120k average salary, loaded by 20%) 3. In year one, 1000 small providers dedicate 10 days of management time at an average of $461 per person per day. 4. In subsequent years the management time required is reduced by 50% 5. Does not make allowance for the costs of preparing and monitoring Action Plans, responding to information requests from CC or funding/participating in external investigations.

Additional Information provided by Communications Alliance:

- CC will consist of 2x Industry Reps and 2x Consumer Reps, plus Executive Director, reporting to 3 Member Board (Chair of CA, Exec-Dir. and one other);
- CC Board meets 2-3 times p.a. Board Members (excl. Exec-Dir.) paid $20k flat annual fee;
- CC Meets 17 days per annum (equivalent of 11x1 day meetings plus 6 additional days) Sitting Fees paid at Remuneration Tribunal Member daily rate of $641;
- 20 Travel reimbursements for Industry and Consumer reps @ $600. $10k in staff travel expenses; and

- 2xFTE staff: Executive Director at $180k Annual Salary incl. superannuation/Administrative Officer at $80k annual salary incl. superannuation.