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Dear Sarah,

I write on behalf of the Australian Mobile Telecommunications Association (AMTA) in response to the *Campaigning for Consumers in Communications* 'Consultation Paper, September 2009' (the Consultation Paper).

1 INTRODUCTION AND OVERVIEW

- 1.1 AMTA is the peak industry body representing Australia's mobile telecommunications industry. AMTA's mission is to promote an environmentally, socially and economically responsible and sustainable mobile telecommunications industry in Australia. AMTA members include mobile Carriage Service Providers (CSPs), handset manufacturers, retail outlets, network equipment suppliers and other suppliers to the industry.
- 1.2 AMTA takes a keen interest in consumer issues and regularly engages with industry, consumer groups and regulators in relation to telecommunications-related consumer policy and regulation. AMTA has also actively sought to assist consumers of all ages to enjoy the benefits of mobile telecommunications in a financially affordable, safe and responsible manner through its various educational initiatives. This has included producing 'consumer tips sheets' on issues as diverse as financial management, safe driving and cyber-safety, as well as a section of its website dedicated to those with disabilities. AMTA has also produced a website specifically for young people (www.str8tlk.org.au), addressing a number of mobile phone-related issues. For more details about AMTA, see www.amta.org.au.
- 1.3 AMTA welcomes the opportunity to provide comment to ACCAN on its Consultation Paper. This submission does not seek to answer all the questions posed by ACCAN in its Consultation Paper, or to provide detailed comment on any issue. Rather it looks to provide high-level comments on some key overarching themes.
- 1.4 AMTA looks forward to establishing a constructive and co-operative relationship with ACCAN and would welcome the opportunity to discuss the issues raised herein, and other relevant issues as they arise, with ACCAN.

2 KEY ISSUES

Productive relations and an evidence-based approach

- 2.1 ACCAN states in its consultation paper that it will form productive relationships with key consumer groups, industry, government and other stakeholders both domestically and internationally. AMTA strongly supports a co-operative approach to addressing issues and welcomes the opportunity for an open and transparent relationship with ACCAN. A genuinely co-operative approach to problem solving provides the best opportunity to ensure a 'win-win' situation, with solutions that adequately meet the needs of all parties.
- 2.2 AMTA also welcomes ACCAN's stated commitment to research. A disciplined evidenced-based approach to policy formulation is vital to achieving positive, efficient and effective outcomes for stakeholders.

Consumer education and advice

- 2.3 It is important that consumers are educated and aware of their rights and responsibilities. Clear, plain-English advice to consumers is an essential part of this.
- 2.4 AMTA notes that there is a plethora of consumer information available including:
- Information about a wide range of issues is available from CSPs, handset manufacturers and other industry player's individual websites, consumer service call centres and shopfronts.
 - AMTA's educational campaigns, consumer tips and websites. A diverse range of issues have been addressed including financial management issues, cyber-safety, safe driving, mobile manners, disability issues, recycling, international mobile roaming, lost and stolen phones and security issues. AMTA also has a website specifically for young people AMTA's (www.str8tlk.org.au).
 - Communications Alliance similarly has consumer information, including a dedicated site for mobile premium services information (www.19SMS.com.au).
 - Information on various government websites, including ACMA and the ACCC.
- 2.5 AMTA would be keen to work with ACCAN to assist in addressing identified gaps in consumer information where applicable. AMTA suggests that this work be undertaken in line with the recent recommendations by the Productivity Commission that:

“The Australian Communications and Media Authority and the Department of Broadband, Communications and the Digital Economy should conduct a comprehensive joint review of all the customer information requirements imposed on telecommunications businesses, and the processes used in developing new requirements. Specifically they should:

- review all of the current customer information requirements in consultation with industry and consumer organisations, with the aim of streamlining the requirements to remove duplication, reduce the burden on business, and improve the comprehensibility and clarity of information provided to customers.^{1.}”

Regulatory framework

- 2.6 The *Telecommunications Act 1997* (the Act) establishes a framework for telecommunication regulation that “promotes the greatest practicable use of industry self-regulation”² The Act is administered by the Australian Communications and Media Authority (ACMA) and provides for the development of industry codes.
- 2.7 AMTA believes that the ability to respond quickly is important in a dynamic, fast-moving industry. For example, Australia has a very effective, fast and efficient mobile number porting regime, leading to competitive outcomes for consumers. Mobile number portability is implemented through an industry code.
- 2.8 In reality, however, it is more accurate to describe the regulatory model under which the industry operates as a ‘co-regulatory’ model; there are different degrees of industry and government initiation of ‘self-regulatory’ initiatives and significant use of government delegated legislation.
- 2.9 It is important to recognise that this co-regulatory model requires that the ACMA approve Codes, ensuring that certain process and consultation criteria have been met in Code development and that ‘the Code provides appropriate community safeguards for the matters covered by the Code.’³
- 2.10 Critically, the co-regulatory approach is also backed by enforcement: once the Code is registered by the ACMA, it is mandatory. The ACMA has clear enforcement powers and penalties to ensure compliance. These are proposed to be reinforced substantially through the changes currently before Federal Parliament in the *Telecommunications Legislation Amendment (Competition and Consumer Safeguards) Bill 2009*.
- 2.11 AMTA recognises that an efficient and competitive mobile telecommunications industry will ultimately be beneficial to both consumers and the industry itself and acknowledges that there are concerns about the current regime. For example, AMTA has raised concerns that there is some overlap and inconsistency between jurisdictional and agency responsibilities. There are also numerous bodies developing policy without adequate reference to, or knowledge of, initiatives or regulatory responses developed by other bodies or agencies.
- 2.12 Such duplication and complexity can result in sub-optimal policy processes and outcomes. Even where a good outcome is eventually achieved, poor process increases the cost of development and compliance. These costs are inevitably passed on to consumers.

¹ Productivity Commission Research Report *Annual Review of Regulatory Burdens on Business: Social and Economic Infrastructure Services*. August 2009: Recommendation 4.2, page 148.

² *Telecommunications Act 1997, Section 4a*.

³ *IBID, S117 (1) (d) (i)*

- 2.13 This kind of duplication and overlap can also lead to confusion among suppliers and their customers as to their obligations and rights. Consumers particularly may find the complaints procedures and processes across different jurisdictions, for the same services and products, confusing. This may lead to a perception of less than satisfactory or timely resolution of issues.
- 2.14 AMTA believes that, before considering abandonment of the current regime, however, it is important to use a disciplined evidence-based approach to properly analyse the status quo and ensure that any improvement or alternative is only introduced where a detailed analysis has determined that: a problem exists; that any alternatives could provide a better solution than existing regulation, legislation or quasi-legislation (such as Codes); and that it does not duplicate or overlap with existing regulation.
- 2.15 The Department of Broadband, Communications and the Digital Economy is currently reviewing the Consumer-related industry Code process. AMTA suggests that further discussions on this issue could be held once the review is completed. AMTA would be keen to participate in those discussions, as appropriate.

Legislative powers

- 2.16 AMTA is keen to better understand ACCAN's statement that :

“[it] will campaign for ‘super complaint’ powers, a legislative clause that will allow us to present evidence to the government of systematic failure in the market, and be entitled to a formal response from government.”

- 2.17 AMTA agrees with ACCAN's commitment to evidence-based policy making and cannot obviously see how ACCAN could undertake the necessary data collection, analysis and review necessary to identify evidence of systemic failure unless such evidence is based on statistics from the Telecommunications Industry Ombudsman (TIO).
- 2.18 It is currently the role of the ACMA to work with the TIO to address systemic issues, with other government agencies responsible for addressing numerous other consumer issues, including the Australian Competition and Consumer Commission (ACCC), Privacy Commissioner and others.
- 2.19 AMTA therefore questions whether there would be any benefit in ACCAN having a “super complaints” power, suggesting it would appear to duplicate the existing arrangements.

Supporting responsible consumption

- 2.20 ACCAN states its interest in E-waste and related issues and notes that the mobile industry is a standout performer in the area of recycling, with AMTA running a world-leading scheme on industry's behalf: “MobileMuster”. MobileMuster is the only industry-wide program for electronic waste offering free recycling for all mobile phone brands in Australia. It is believed to be the only such scheme in the world.

- 2.21 The mobile telecommunications industry voluntarily initiated the program in 1999. The program collects mobile phone handsets, batteries, chargers and accessories from a network of over 3000 public collection points.
- 2.22 More than 90 percent of the materials in mobile phones, batteries, accessories and chargers can be recovered. These materials are then turned into useful products. Recycling mobile phone materials avoids between 60 to 90 percent of the greenhouse gases that would normally be emitted when making these products from new materials.
- 2.23 The program also allows the small amount of potentially harmful substances within mobile phones to be safely disposed of.
- 2.24 For more information about MobileMuster see: <http://www.mobilemuster.com.au>.

Health issues

- 2.25 AMTA agrees that it is important that consumers have accurate science-based information about health and quality of life issues to help them make appropriate and informed choices in relation to their use of technology.
- 2.26 On the specific issue of exposure to equipment and transmissions, the mobile phone industry relies on expert advice from national and international health agencies. AMTA responds to community concerns about potential health effects of radiofrequency fields (RF) by relying on the World Health Organisation (WHO), which says:
- 2.27 "...overall evidence available to date does not suggest that the use of mobile phones has any detrimental effect on human health."⁴

Lost and stolen service

- 2.28 AMTA initiated and manages a service for consumers who have lost their mobile phones or had them stolen. The service blocks the subsequent use of the phone on any network and prevents consumers incurring further charges. It is also designed as a deterrent to theft.
- 2.29 AMTA's lost and stolen service follows initiatives by individual carriers to address the problem (on their own networks). The ability to block lost or stolen phones across networks is a world-first, and represents a significant investment by AMTA and its members. It is especially helpful to younger owners who are more likely to lose their phone or have it stolen.

⁴ WHO [What is EMF?](#) p.3

Accessibility

- 2.30 Mobile telephony is an important means of communication for the general community. For older people, or those with a disability, instant access to family and friends is perhaps even more important.
- 2.31 AMTA has a section of its website dedicated to Accessibility issues. This allows consumers to access information about mobile phone equipment, accessories and services to suit their needs.
- 2.32 In response to requests from disability groups for improved information regarding disability, the mobile industry globally has responded, developing a worldwide information service for reporting the accessibility features of mobile phones.
- 2.33 Called GARI (the Global Accessibility Reporting Initiative), the project includes a new website - www.mobileaccessibility.info - which will allow consumers to search for a mobile phone model that suits their specific accessibility requirements.
- 2.34 AMTA and its members were involved in the project and further details are available on the AMTA website.

3 CONCLUSIONS

- 3.1 AMTA thanks ACCAN for the opportunity to provide input to its strategic planning process and hopes its input is useful.
- 3.2 AMTA looks forward to establishing a constructive and co-operative relationship with ACCAN and would welcome the opportunity to meet with ACCAN, discuss any issues raised in this submission (or other relevant issues) and begin to build such a relationship.

I look forward to talking to you soon. In the interim, please do not hesitate to contact me, or AMTA's Chief Executive, Chris Althaus, on 02 6239 6555 or by email: peppi.wilson@amta.org.au with any questions.

Yours sincerely

Peppi Wilson

Manager, Policy