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30 June 2007

Dear Ms Hardy

### **Proposed framework for the review of existing services declarations**

Thank you for the opportunity to provide a submission to this review.

The Consumers' Telecommunications Network (CTN) is a national peak body of consumer and community organisations, and of individuals representing community interests, who participate in developing national telecommunications policy. We advocate policies for better access, quality of service and affordability of telecommunications facilities for all residential consumers. CTN's members are national and state organisations representing consumers from non-English speaking backgrounds, deaf consumers, indigenous people, low income consumers, people with disabilities, young people including children, pensioners and superannuates, rural and remote consumers, women and consumers in general.

CTN is only responding to the following question in this submission:

*How should the Commission balance its obligation to provide regulatory certainty against the changing dynamics of the telecommunications industry, and the need to maintain flexibility to respond to these changes?*

From the outset CTN, like the Productivity Commission, "...regards the welfare of the community as a whole — that is, having regard to the interests of all stakeholders — as the basis for judging whether a regulation is good or bad. This is not necessarily the same as the 'longterm interests of end-users' that is currently the standard applied in part XIC of the ...*Trade Practices Act 1974* (TPA)..."<sup>i</sup>

Raising the standard to ensure that the "longterm interests of the community as-a-whole" (LTIC) is promoted, as opposed to its subset "longterm interests of end-users" (LTIE), ensures that social and/or community issues would be considered in making a decision about whether to declare a service in a particular geographical region.

The mechanism, that CTN advocates, to consider the LTIC would be a Community Impact Statement (CIS), which would assess the likely social and economic impacts on the proposed geographic area's community that may result should the declaration occur. The primary purpose of a CIS would be to assist the ACCC assessment of the social and economic implications of the proposed declaration. The CIS would also function as a public consultation document to facilitate informed community comment on the possible declaration.

To illustrate, section 152AB(2) of the TPA requires that regard be had to the following objectives in determining whether a particular thing promotes the long-term interests of end-users:

- the promotion of competition in telecommunications markets for listed services;
- the achievement of any-to-any connectivity between end-users; and
- the efficient use of, and investment in, infrastructure.

With regard to promoting competition in a LTIC paradigm, CTN recognises the increase in choice and services that can follow by increasing competition in a distinct geographical area. What CTN is concerned about is any adverse social and community impacts that could increase the digital divide at a community level. Further to this cheaper prices may encourage consumers who agree to services that are tied to longer contractual terms or, worst still, contain additional financing of equipment contracts with third-parties who the consumer has no recourse, through say the TIO, as the third-party finance company may not be a TIO member.

With regard to any-to-any connectivity between end-users, it is critical that the needs of people with disabilities are considered and incorporated into network design otherwise there will be further isolation of people with disabilities. For instance, the Australian Association of the Deaf recommends that serious consideration and action be given to the following and that the telecommunications industry, Government and regulators start working together in achieving these outcomes:

1. All measures should be taken to ensure that services provided in the telecommunication market also provide an equivalent service that Deaf people can access i.e. video based communications. It does not stop just at the equipment but also looks into how services are provided to the Deaf community.
2. The Australian Government and the industry working with AAD and other stakeholders look at funding and establishing a Video Relay Service in Australia
3. To address legislative and regulatory issues to make the necessary inclusions that video telephony be considered as Deaf equivalent to a voice telephone

4. That ACMA should work with AAD and the Communication Alliance to start addressing all the codes and guidelines currently provided to the industry to ensure that video telephony is the preferred equivalent service for the Deaf community
5. The telecommunication industry needs to be more pro-active and inclusive through collaboration with AAD and other Deaf organisations when developing new technologies or services to ensure that they can be accessed where possible.
6. That IP-based video communications services are provided to those who require access to them at affordable prices and certainly not more than the current standard telephone services.
7. To ensure that Deaf people in Australia are able to access the required high speed broadband at an affordable & equitable cost i.e. of a basic broadband plan. <sup>ii</sup>

With regard to the efficient use of, and investment in, infrastructure, the high cost of building infrastructure to remote areas, versus the low return for investment has always been a disincentive for telecommunication corporations. This issue has always been considered fiscally and not from a LTIC perspective. Social and community considerations, with regard to infrastructure, could identify any resulting effects on the digital divide in the context of socioeconomic, racial and/or geographical (urban/rural/remote) parameters.

CTN's 1<sup>st</sup> recommendation to the recent Productivity Commission's Review on the Consumer Policy Framework was ... "that the benefits of community impact statements be considered as a tool for consumer policy."<sup>iii</sup>

Recently consumer advocates have been developing a CIS framework. A CIS could address such key factors as tabularised below which could identify the scope of the CIS.

Key Factor	Question
1. Types of End-Users	a. Does the proposed new product or service have relevance to non technical home users as opposed to being used by technicians in businesses?
2. Functionality	a. Does the proposed new product or service raise issues of compatibility with other technology both from backwards & forward looking perspectives?
	b. Does the proposed new product or service raise issues of interoperability?
	c. Does the proposed new product or service raise issues about Network Integrity?
3. Useability	a. Does the proposed new product or service raise issues about useability or is it based on intuitive design (e.g. complex operation with high level of skills required of end-users)

	<p>b. Does the proposed new product or service raise issues about accessibility? For example are there issues limiting people with disabilities, people living in rural and remotes areas and/or people who speak different languages?</p>
	<p>c. Will the proposed new product or service require manuals and/or specialised training and/or user information in hard copy and/or on websites?</p>
<b>4. Safety</b>	<p>a. Does the proposed new product or service raise issues about safe access, safe and secure operation and maintenance of products and services?</p>
	<p>b. Does the proposed new product or service raise issues about acoustic safety, ergonomics, security and/or exposure to radiation?</p>
	<p>c. Does the proposed new product or service raise issues about access to emergency services (i.e. will there be continuity of operations in the event of emergency, disaster, or accident)</p>
<b>5. Privacy</b>	<p>a. Does the proposed new product or service raise issues about privacy and the protection of end-user personal details?</p>
<b>6. Labelling</b>	<p>a. Will the proposed new product or service require special product labelling?</p>
	<p>b. Will the proposed new product or service require special warning notices?</p>
<b>7. Environmental</b>	<p>a. Will the proposed new product or service have an adverse impact on the environment or is it designed with sustainability features?</p>
	<p>b. Will the proposed new product or service require special energy ratings?</p>
<b>8. Complaints Handling</b>	<p>a. Does your company have systems and processes in place to ensure any customer complaints are handled in a manner that would meet the Australian Complaints Handling standards?</p>

Further to this, a CIS' could be evaluated using the following critical success factors:

<b>Critical Success factor</b>	<b>Question</b>
<b>1. User Requirements</b>	a. Were end-users involved sufficiently in the development process?
	b. Was usability criteria built into the development of the product or service?
	a. Is there an adequate communications plan for end-users to be informed appropriately about product or service developments?

<b>2. Support Needs</b>	a. Are there adequate support facilities and clear guidance as to how end-users can access support, e.g. training?
	b. Is there adequate consideration of different user skill levels?
<b>3. Effective outcomes</b>	a. Were any concerns about consumer protection adequately addressed?
	b. Were safety aspects properly addressed?
<b>4. Cost Effective Outputs</b>	a. Have you been able to contain the cost implications by avoiding costly retrofits and ensuring for better designs in the future?
	b. Were you able to keep design costs to a minimum?
	c. By implementing the Design for All concepts were you able to ensure the target market is larger?
	d. Do you involve end-users in testing and acceptance of services and system developments, modifications and enhancements?

In summary, the Commission needs to balance its obligation to provide regulatory certainty against the changing dynamics of the telecommunications industry, and the need to maintain flexibility to respond to these changes in a way that does not ultimately impact adversely on the community as a whole. CTN in this submission has promoted the need for Community Impact Statements as a mechanism to consider the social and economic impacts of the objectives that the Commission has to take into regard when determining whether it promotes LTIE. Being socially responsible with regard to competition, connectivity and infrastructure use and investment is to be given due regard in an exponentially changing industry that has such amazing potential for all members of the community.

We hope these comments are of use to you. Should you wish to discuss this response in more detail please contact myself or Annie McCall at the Consumers' Telecommunications Network on 02 9572 6007 or at [ctn@ctn.org.au](mailto:ctn@ctn.org.au).

Yours sincerely



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**CTN Chief Executive Officer**

Annie McCall, CTN Information Officer, and Teresa Corbin, CTN Chief Executive Officer prepared this submission. The CTN Council approved it out of session

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<sup>i</sup> Productivity Commission, 2001 Telecommunications Competition Regulation. Retrieved 15 June 2007 at <http://www.pc.gov.au/inquiry/telecommunications/finalreport/>

<sup>ii</sup> Australian Association of the Deaf, 2007. What is Deaf equivalent to Voice Telephony? Retrieved 15 June 2007 at [http://www.aad.org.au/info/paper\\_voctel.php](http://www.aad.org.au/info/paper_voctel.php)

<sup>iii</sup> Consumers' Telecommunications Network, 2007. Productivity Commission Review 2007-Consumer Policy Framework Submission. Retrieved 20 June 2007 at <http://www.pc.gov.au/inquiry/consumer/subs/sub078.rtf>