Submission to ACMA's Reconnecting the Customer consultation

Brotherhood of St Laurence

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1 Background into the Brotherhood of St Laurence’s interest in the consultation

The Brotherhood of St Laurence is an independent non-government organisation with strong community links that has been working to reduce poverty in Australia since the 1930s. Based in Melbourne, but with a national profile, the Brotherhood continues to fight for an Australia free of poverty, guided by principles of advocacy, innovation and sustainability. Our work includes direct service provision to people in need, the development of social enterprises to address inequality, research to better understand the causes and effects of poverty in Australia, and the development of policy solutions at both national and local levels.

As part of our wider efforts to promote social inclusion, the Brotherhood is committed to developing and demonstrating effective programs for disadvantaged people to address financial exclusion. Financial exclusion involves being denied access to affordable, appropriate and fair financial products and services, with the result that people’s ability to participate fully in social and economic activities is reduced, financial hardship is increased, and poverty (measured by income, debt and assets) is exacerbated.

Australians experience financial exclusion to varying degrees and it impacts on their lives in a variety of ways. It has many causes: some of the main contributory factors include low income and high expenses (debt repayments or dependants), low levels of financial literacy limiting choice or ability to implement effective financial management, and life events resulting in unexpected expenses (medical expenses, car breakdowns, unanticipated bills etc). The solutions, too, are numerous. The Brotherhood believes that through (among other things) assistance to better manage income and expenditure, to improve financial literacy, and to enhance their ability to handle unexpected expenses, individuals may dramatically improve their financial outlook and their financial inclusion. Appropriate and affordable financial and consumer services, including telecommunications services, are also significant in addressing financial exclusion.

The Brotherhood works with many Australians to help reduce financial exclusion, and in doing so, gains an insight into their experiences. Many of our clients’ experiences reflect issues that may be expected to emerge through the Reconnecting the Customer consultation.

In its submission to the Australian Communications and Media Authority (ACMA), the Brotherhood highlights some of its major concerns regarding the systemic causes of dissatisfaction in the telecommunications industry, especially the problems faced by disadvantaged and vulnerable people, and how it believes they can be strategically addressed in the converging communications environment. While we are aware that the review is ostensibly about complaints and best practice in complaints handling, the Brotherhood believes that it would be more beneficial to address the causes of complaints rather than how complaints are handled.

2 Customer experiences with telecommunications providers

Many of our clients report problems with their telecommunications providers. Some are extremely frustrated with the service they have received but unable to improve their circumstances without incurring fees for breaking a contract. Some clients change service providers only to realise that other telecommunications companies fall short in the same areas.

Two cases illustrate the recent experiences of Brotherhood client. The first highlights the importance of telecommunications to many people's health and wellbeing, and the necessity of reliable services from telecommunications providers:

> Ray[1], an 88-year-old Brotherhood of St Laurence client, was billed an unusually large amount ($1200) for broadband usage after he unintentionally exceeded his data quota and incurred a high rate for excess data usage. After recovering from the initial shock over the size of the bill, Ray made an agreement with his service provider (who was also his home telephone provider) to make regular payments to pay off the bill. The regular payments were being made through a direct debit arrangement which Ray's niece had helped him to set up.
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> Ray's home telephone service was especially important to him, as he used a personal alarm call system which entailed wearing a small electronic device which he could activate in the event of a medical emergency. The device, once activated, would use the home phone line to signal for help.
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> Some time later, and without warning, Ray's home phone line was cut off. Ray was not aware that the phone was not working until a neighbour was sent to check on him by concerned welfare workers with whom he maintained regular contact. The neighbours and welfare workers were relieved to find out that Ray was all right.
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> The provider was contacted and gave no explanation about why Ray's home phone had been cut off without him being notified. The service provider admitted that it was their mistake, and immediately made arrangements to have the home phone switched back on, but said it would take 24 hours. During this time, Ray had to leave his home to be cared for by his niece.
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> Without an operational phone line, Ray's personal alarm device was useless, and since he did not know that the phone had been disconnected, he was not aware that the alarm would not have functioned had he attempted to use it.

In another case, a Brotherhood client was unable to participate in the Brotherhood's Progress Loans program due to a debt to a telecommunications company that was listed on her credit report. Progress Loans, a partnership with ANZ, offers mainstream, affordable and safe credit for essential purposes to people who would otherwise be excluded from financial services.

> Marianne[1] was ineligible for a Progress Loan as she had a default listing on her credit report. She had previously acted as guarantor in her granddaughter's mobile phone contract, which led to her owing $1785 after the granddaughter exceeded the cap and subsequently cancelled the plan.
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> Ascertaining that the default had resulted from an exceptional unexpected bill, Brotherhood staff helped her apply for a no interest loan under the No Interest Loan Scheme (NILS®), which she used to purchase a washing machine, and successfully repaid. In the very next year Marianne applied for another no interest loan (this time for car repairs) which she again repaid. Despite the default listed on her credit file, Marianne

[1] Pseudonyms used

successfully paid back two loans, indicating that she was certainly more creditworthy than her default listing may have had lenders realise. This is evidence that telecommunications companies too easily put defaults on customers' credit records which can severely limit their access to essential financial services including access to mainstream credit.

This case highlights both how profound the effects of a default can be (Marianne was rendered ineligible for many financial services due to her default), and how easily and sometimes innocently this type of financial mishap is allowed to occur.

3 Competition and pricing issues

3.1 Competition in the telecommunications sector

Competition in the telecommunications industry is vital to ensuring that consumers can choose from an array of competitively priced offerings. Effective competition should contribute to the market serving the needs of everyone, including vulnerable and disadvantaged groups; it should not mean that the market just operates for those with existing capabilities. Various inherent features of the telecommunications environment are obstacles to effective competition, but a lot can be done to relieve some of these hindrances and induce more effective competition and ultimately better outcomes for both consumers and telecommunications companies.

A notable feature of the telecommunications industry is that consumers have limited scope to 'shop around for the best deal' since setting up a mobile or landline phone, or an internet connection, may be a necessity to be able to contact employers, friends and relatives. This often sees consumers under some time pressure to find a service quickly, limiting their ability to search the market for the best deal, and plays into the hands of telecommunications companies which have tailored their advertising to this environment. Telecommunications companies consequently bombard the consumer with confusing and flashy advertising rather than with useful information concerning how and why their product/service offering is superior to competitors' offerings. The competitive telecommunications environment is, at present, akin to a debate in which the winner is the voice which is loudest rather than the one which conveys the most intelligent information.

The Brotherhood believes that measures encouraging telecommunications companies to compete based on the attributes of their products/services rather than on their brand awareness would see telecommunications companies realise greater rewards for improving their products/services, and ultimately greatly improve conditions for consumers, especially for those living on low incomes or most at risk of being misled. On the other hand, when consumers cannot easily compare product/service attributes (because the information is either difficult to obtain, or too confusing – see below), firms providing superior products/services cannot realise returns because they are beaten by firms offering inferior products/services but using more successful, albeit more confusing, marketing ploys.

The Brotherhood supports measures which improve the availability of information to consumers about products/services so as to make them more comparable. This will also allow consumers to be better informed, make better decisions, and ultimately receive better products/services. It will also help alleviate the market of some of the financially dangerous products/services currently available (since better informed consumers will presumably be more able to avoid them).

In its 2007–08 Communications Report, the Australian Competition and Consumer Commission (ACCC) stated that 'the effectiveness of competition in telecommunications markets is a strong indicator of the health of the industry' (ACCC 2008), and that competition had long been a focus of attention for policy makers and regulators because of the improvements in price, quality and innovation from the introduction of competition. The Brotherhood concurs, and stands firmly in support of measures which enhance the effectiveness of competition in the telecommunications industry and make services accessible to and affordable for all Australians.

3.2 Confusing pricing

Telecommunications is an environment in which product/service offerings are complex, and where consumers' levels of understanding of these product/service characteristics vary (some understand them well, others do not). Disadvantaged people, for example those from non-English speaking backgrounds, those with disabilities or the elderly, are particularly vulnerable to problems caused by this complexity.

Although offerings tend to be complex (for example a standard broadband service might involve availability and cost of a 'line', fixed monthly costs, additional data costs which may include a cap or a 'throttle', data download speeds, peak and off-peak speeds, rates and times, contract terms, option to 'bundle', upgrades, inclusion of a modem), and telecommunications companies face an obvious challenge when attempting to present this information to prospective customers without utterly confusing them, there is still scope for the information to be more consistent across the industry so as to help consumers decide which products and services are best for them. At present, individual firms have an incentive to deviate from honestly presenting well-organised pricing information toward confusing consumers into incurring 'hidden' costs or charges which are disguised in the depths of the fine print of a contact.

The Brotherhood believes that measures which enhance the consumer's ability to gather and compare relevant information in a timely and efficient fashion will contribute to a stronger and more competitive telecommunications environment and will ultimately improve the outcomes for both consumers and suppliers.

Recommendations

There is a need for measures which enhance consumers' abilities to gather and interpret information about available products/services. This requires the simplification and standardisation of information. It also requires collation of information, which can be done by individual consumers, but not efficiently, and which will not be done by companies as it is not in their interests. It is therefore best that the responsibility rest with the regulator. We recommend the following:

- Establishment of a government-sponsored up-to-date website where consumers can easily compare available offerings and see which is best for them, along the lines of energy comparison website <www.yourchoice.vic.gov.au> established by the Victorian Government.
- Establishment of a standard product information statement which would be required to be presented to consumers entering new telecommunications arrangements. This would simply state the important features of the product and clearly set out the costs involved.

- Strategies (such as community education and support services) to ensure information reaches and is effective for disadvantaged or vulnerable groups, such as the elderly or those whose first language is not English.

3.3 Problems with caps

Mobile 'cap' plans typically allow customers to pay a certain minimum monthly amount (a 'cap') in return for a certain amount of 'value' that can be used on mobile phone services (usually calls to mobiles and landlines, SMS, MMS, voicemail and data usage).

While marketed as capped plans or 'caps', these plans do not necessarily limit (or cap) usage. Mobile phone users who are on a 'capped' plan run a risk of exceeding their cap and incurring excess charges.

The notional amount of 'value' received is often much more than is paid for in the cap, which is understood to be a way that telecommunications companies attract customers to such plans. For example, under the Optus $19 Extreme Cap a user pays $19 but receives up to $70 in value, or under the Optus $79 Extreme Cap the user gets up to $800 value. Viewed in isolation, this pricing practice does not appear to be malicious. However when a customer goes over their included cap value, they are essentially charged for equivalent services at rates which are approximately 3–10 times more expensive.

For example, under the above Optus $79 Extreme Cap a 5-minute mobile-to-mobile call will result in a deduction of $4.85 (90c/min + 35c flagfall) from their $800 value, equating to a real cost[2] of approximately 48c ('real cost' being the call charge multiplied by the cost of the cap divided by the cap 'value'). In practical terms, a customer is out-of-pocket approximately 48c for the 5-minute phone call. As long as the customer stays within their cap this is the approximate rate that they are charged. However, once the cap is exceeded (which the customer is not necessarily aware of) the real cost to the consumer leaps to the actual call charge (e.g. a 5-minute mobile-to-mobile call would actually cost $4.85). This can represent a real price increase of over 900%. At this much increased rate, customers are at great risk of incurring tremendous charges, and anomalously large bills.

A second way of describing this type of pricing is:

- First $79 paid by the customer buys approximately 15 hours worth of calls
- The next $79 (which means going over the cap) paid will purchase only about 1.5 hours worth of calls

A third, even more striking, way of describing this type of pricing is in the table below.

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

[2] Based on the presumption that the full 'value' provided by the cap is used; otherwise the 'real cost' will be greater than that stated.

All views on this 'capped' pricing practice show how the consumer's out-of-pocket expense is vastly greater once they exceed the cap. Given the difficulties customers have in monitoring cap usage, and the nature of the use of mobile phones (e.g. irregular yet necessary use), this pricing structure could be viewed as somewhat predatory.

In short, a customer on the above capped plan (which is not an isolated example) would be charged a rate up to *over ten times* the initial charges for their mobile use once they exceed their cap.

It is obvious that suddenly charging *ten times more* for the same services beyond a certain level of use does not at all reflect the cost of service provision, and is evidence of profiteering which must be curbed. The profiteering preys on the fact that mobile use by customers is often irregular (family emergencies and other life events may cause someone to make occasional heavy use of their mobile), and for this customers should not be punished or taken advantage of.

The problem is further fuelled by difficulties customers have in accessing information about their current balance, so that they are often unaware of their use and whether or not they have exceeded their cap.

Recommendations

In order to help consumers to avoid unfair excess usage charges on mobile phones, the following measures are recommended:

- Warnings (for example, through text messages) sent to all customers on capped plans to warn them before they exceed their cap.
- A similar warning text for mobile 'data' usage at appropriate usage intervals.
- A requirement that the warnings be sent a reasonable period before the cap is reached. At present, some companies send warning texts similar to the above but these often have lengthy delays (48 hours in some cases) during which customers can unknowingly exceed their cap incurring excessive charges.
- A requirement that use beyond that covered under the 'cap' only be granted after confirmation from the user. That is, a customer would be required to opt in to acknowledge that subsequent use will cause them to exceed their cap and will incur higher charges. It is envisaged that this requirement could be removed at the customer's request, but not for mobile phones being used by minors.
- A requirement that mobile data use be limited by either (i) 'throttles' (severe limits on the speed of connection, protecting customers from using data at high rates and rapidly amassing charges) being applied to mobile phone data use, or (ii) data use being suspended by the provider once a limit has been reached.

4 Hardship and unrestricted credit

Mobile phones are becoming increasingly integrated into the lives of Australians, including our youth. Mobile phone service providers offer various incentives including free handsets or discounted call rates to use post-paid mobile services, which has led to a high uptake in the Australian market.

Users of post-paid services are essentially being given 'credit' for which they will be billed on their account. Whether the user has the financial capacity to pay their bill is another question, but one which does not affect their legal obligation to pay the bill. Customers who have trouble paying bills may be put onto payment plans by their provider, but in many cases the payment plans are unreasonable or unaffordable. In some cases where a customer fails to pay the bill it can become bad debt and a default may be listed on their credit file. This can stay with the customer for years, impairing their ability to obtain credit in the future and hence their ability to obtain a car or home loan. Additionally, inability to pay may lead to cancellation of the service, which can compound the problem if the customer relies on that communication for their employment or wellbeing (e.g. a casual worker may need to be in constant contact with an employer to determine shift times).

The Brotherhood has particular concerns around the issue of youth accruing large debts via mobile phone usage and enduring similar life-changing consequences to those mentioned above (bankruptcy, loss of communications, potential loss of employment), especially since young people may be less experienced in gauging usage and therefore more likely to run up a large bill or mobile phone debt. Youth may also be more susceptible to other pitfalls like premium SMS/call services which can cost significant sums over very short timeframes.

The Brotherhood is also concerned about variability of telecommunications bills and 'bill shock' which puts severe strain on clients who depend on a high degree of certainty in their expenses in order to budget effectively. The Brotherhood works with many clients who participate in programs to improve their financial literacy (e.g. Money Minded) or to save for essential assets or education (e.g. Saver Plus). Many low income earners have learned to budget and to save money in small amounts so as to accumulate modest yet significant assets. Unexpectedly large bills can wipe out the gains made over months of careful saving.

Recommendations:

- A more onerous obligation should be applied to telecommunications providers in relation to the provision of post-paid accounts. As post-paid accounts are effectively unrestricted credit, providers should be required to assess a customer's capacity to pay and the suitability of a product before entering into an agreement.
- Where customers enter into post-paid telecommunications arrangements with an expected monthly spend (i.e. cap), the provider should be required to inform customers of their level of expenditure at regular intervals to ensure that they do not receive an unexpectedly high bill.
- Given the significant and ongoing consequences of telephone-related debt being placed on an individual's credit report, especially in preventing access to other financial services, small telecommunications debts should not be listed on credit reports.
- Telephone providers should be obliged to have hardship policies and to offer such arrangements to customers who indicate that they are experiencing hardship. Telephone providers should also be obliged to take a proactive approach to identifying those who may be experiencing hardship, such as offering assistance to those who regularly pay bills late.

5 Customer service

The Brotherhood has become aware many customer service issues and concerns in the telecommunications industry. These are addressed below.

5.1 Difficulty in contacting telecommunications companies

Customers need to contact telecommunications companies from time to time for many reasons. These could relate to faulty services, billing errors or other concerns.

Concern has been raised around the lengths of time that customers have been placed on hold when attempting to contact their telecommunications company. This is an even greater concern for customers who work full-time or have caring responsibilities. Also, these calls can cost considerable amounts: although some telecommunications companies provide 1800, 1300 and 13 numbers, these numbers are not always of use to customers who do not have a landline phone. Our experience is that many low-income households are forgoing landline services in favour of mobile phones, as the monthly landline rental charge is significant. In the case of at least one provider contacted, an 1800 call from a mobile was charged at a significantly higher rate than a call to another mobile (TPG 2010, personal communication, 3 September 2010). Under this pricing, a 10-minute call to an 1800 number would cost 35c flagfall plus $1.10/minute, totalling $11.35, which is unacceptable.

Other sources of frustration and extra call costs are frequent call drop-outs, random and unexplained operator hang-ups, and customers being placed in caller queues time after time. These could be signs that telecommunications call centres are not operating efficiently.

Recognising the expense of calling 1300 or 1800 numbers from a mobile, the Brotherhood of St Laurence recently established a 1300 SMS option for participants of its Saver Plus program. The SMS option allows a staff member to call the client back. This relatively inexpensive initiative improved access to the program for those without a fixed line phone.

Recommendations

- In order that the costs of fixing faulty services and company errors are not borne by customers, each telecommunications company should be required to provide at least one customer service number which can be called for free from i) a landline (already offered by many telecommunications companies), and ii) from a mobile
- Telephone providers should be required to have alternative inexpensive and accessible ways to contact them, like the SMS option described above.

5.2 Language difficulties

There are concerns around the ability of telecommunications call centres to service customers who have language difficulties. Many Brotherhood clients speak English as a second or third language, and many have trouble speaking the language. The problem can be crippling when call centre staff are not fluent English speakers themselves, or when they are simply not aware of the particular problem (call centre staff may be trained in how to deal with common requests only). A customer in this situation may not be able to resolve a problem. In one instance known to the Brotherhood, a customer with limited English skills called a telecommunications company numerous times, and spoke for up to 20 minutes per time, to try to solve the simple problem of the caller ID not being displayed for incoming calls. After multiple calls, the problem turned out to be one which was easily fixed, but only after the customer e-mailed the company a link to a forum in which another customer had described how a similar problem was fixed. The call centre staff were unable to diagnose and fix the simple problem over the phone.

Recommendations:

- Call centre staff need to be better trained to deal with customers whose first language is not English.
- Companies need a better method of referring difficult inquiries to a supervisor with excellent English skills.

6 Reference

Australian Competition and Consumer Commission (ACCC) 2009, *Telecommunications competitive safeguards for 2007–2008: changes in the prices paid for telecommunications services in Australia 2007–2008*, viewed 3 September 2010, <http://www.accc.gov.au/content/item.phtml?itemId=877087&nodeId=685c33e98ae9b709d3b520de9378387b&fn=ACCC%20telecommunications%20reports%202007%E2%80%9308.pdf>