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The Manager  
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Australian Communications and Media Authority

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**Consumer vulnerability: expectations for the telecommunications industry – Draft for consultation**

Thank you for the opportunity to comment on the ACMA's proposal to set its expectations for the telecommunications industry when it interacts with consumers in vulnerable circumstances. Our submission focuses on the potential for those expectations to:

- maximise social inclusion, which is protective of mental health
- minimise social exclusion and isolation, which are risk factors associated with poor mental health, and
- ensure that Australians who face barriers to social inclusion are not locked out of accessing and maintaining telecommunication services.

**Recommendations**

*Recommendation 1*

The Government should undertake a surge of policy and programme effort to close the digital divide to minimise the extent to which economic and social disadvantage, and other vulnerable circumstances, translate into barriers to participation in the social, economic, political and cultural dimensions of the digital environment ('digital participation').

*Recommendation 2*

The ACMA should proactively identify and initiate regulatory measures necessary to achieve behavioural shift in the telecommunications sector away from incentivised exploitation of people experiencing vulnerable circumstances and barriers to digital participation, and towards a culture that supports maximum digital participation by informed and empowered consumers.

*Recommendation 3*

The ACMA should adopt co-design principles to inform development of a statement of expectation, approaching consumers and peak organisations with lived experience of barriers and asymmetries of information and power with the telco sector, including but not limited to:

- safety concerns (including family and domestic violence, elder abuse, institutional abuse and technology facilitated abuse)
- poverty
- homelessness and housing precarity
- disability
- language barriers
- mental poor health, and

- geographic barriers.

As an essential element of co-design, Government should also seek advice on how the statement of expectations, and the mechanisms by which those expectations are realised, can be made culturally safe.

#### *Recommendation 4*

The ACMA should, for the purposes of the statement of expectations, define ‘detriment or disadvantage’ to expressly include digital exclusion from social, economic, political, educational and cultural participation.

#### *Recommendation 5*

The ACMA should include an additional and overarching priority area, the goal of which should be that

Consumers can engage with their choice of telcos through diverse consumer interaction channels that overcome systemic and structural barriers.

#### *Recommendation 6*

The ACMA should frame the outcomes for each priority area to describe expected impacts on consumers and expected behaviours of telcos, their staff, franchisees and agents.

### **The work of the Relationships Australia federation**

A commitment to fundamental human rights, to be recognised universally and without discrimination, underpins the work of Relationships Australia. We are committed to:

- Working in regional, rural and remote areas, recognising that there are fewer resources available to people in these areas, and that they live with pressures, complexities and uncertainties not experienced by those living in cities and regional centres.
- Collaboration with local and peak body organisations to deliver a spectrum of prevention, early and tertiary intervention programs with older people, men, women, young people and children.
- Ensuring that social and financial disadvantage is no barrier to accessing services.
- Contributing practice evidence and skills to research projects, the development of public policy, and the provision of compassionate and effective supports to individuals, families and communities.

Relationships Australia is a federation of community-based, not-for-profit organisations with no religious affiliations. Our services are for all members of the community, regardless of religious belief, age, gender, sexual orientation, lifestyle choice, living arrangements, cultural background or economic circumstances. Relationships Australia has, for over 70 years, provided a range of social services to Australian families, including individual, couple and family group counselling, dispute resolution, services to older people, children’s services, services for victim survivors and perpetrators of family violence, and relationship and professional education. We respect the rights of all people, in all their diversity, to live life fully and meaningfully within their families and communities with dignity and safety, and to enjoy healthy relationships. We focus on

strengths-based options, and therefore tend to refer to systemic and structural barriers to participation, rather than using 'deficit' language.

Relationships Australia contextualises its services, research and advocacy within imperatives to strengthen connections between people, scaffolded by a robust commitment to human rights. Accordingly, this submission refers to evidence demonstrating:

- the adverse impacts of social isolation and loneliness, which include increased risk of becoming a victim or perpetrator of abuse, as well as pervasive negative effects on mental and physical health, and
- the protective qualities of social inclusion and connection.

(This submission concludes with a list of references).

In 2021, digital inclusion is a critical enabler of social inclusion and connection and digital exclusion heightens risks of social isolation and loneliness, with its consequent morbidities, as described below. We therefore welcome the ACMA's explicit recognition that telecommunications services are 'essential' services that are 'a central part of Australian life' (p 3 of the Consultation Paper). For the purposes of this submission, a person experiences digital exclusion when that person cannot access and maintain telecommunications services because of socio-economic, demographic, technological or geographic factors.

Policy, regulatory and service interventions that strengthen connections and reduce isolation constitute the most promising and feasible avenues for reducing the risk of abuse and exploitation of people who face structural and systemic barriers to participation in society:

Social support has emerged as one of the strongest protective factors identified in elder abuse studies... Social support in response to social isolation and poor quality relationships has also been identified as a promising focus of intervention because, unlike some other risk factors (eg disability, cognitive impairment), there is greater potential to improve the negative effects of social isolation.<sup>1</sup>

We serve many cohorts who are disproportionately more likely to experience systemic and structural barriers. Relationships Australia is concerned that without conscious attention to and support for ongoing access to telecommunications services, members of these cohorts will be left behind and social inclusion eroded to the national detriment. Conversely, those with privileged access to digital services and other socio-economic capital will continue to leverage and monetise these resources. This is a recipe for:

- denial of social, political, economic and cultural human rights
- social exclusion and isolation, leading to loneliness and its consequent adverse health impacts (described below), and
- further polarising our society and thus avoidably limiting Australia's capacity to flourish.

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<sup>1</sup> See Dean, CFCA 51, 20, Box 7, citing the United States of America population study described in Acierno et al, (2017); citing also Hamby et al (2016); Pillemer et al (2016).

## **Overarching position**

Relationships Australia recognises the potential of the draft statement to narrow the digital divide and thus support an inclusive society in which barriers to participation are identified and removed.

## **The importance of digital inclusion**

Digital inclusion is a critical enabler of social inclusion, and preventive against loneliness and its adverse effects on physical and mental health.

### *Digital inclusion and social inclusion*

Currently, opportunities for digital inclusion are heavily weighted towards consumers with access to safe, private, reliable and high speed internet services, and the digital literacy to confidently and securely engage with the online environment.

We suggest that, as our social, economic and cultural lives increasingly move online – a move accelerated markedly through the COVID-19 pandemic - digital exclusion will lead to increased isolation and loneliness, with their attendant morbidities. An obvious example is that people without smartphones will continue to face barriers to ‘check in’ to both essential and optional services, and to have a ready means of demonstrating vaccination status. Another example was identified today at the National Summit on Women’s Safety 2021 by the Chief Justice of the Federal Circuit and Family Court of Australia. His Honour noted that, under streamlined arrangements for matters involving family violence (which has for many years now constituted an overwhelmingly dominant proportion of matters brought to the Court), victim survivors can use a mobile telephone, tablet or other device to get help from the Court. If victim survivors cannot access telecommunications services, it is much more difficult for them to get the benefits of these streamlined services.

Research indicates that digital exclusion is strongly affected by a range of demographic and other factors which erect barriers to social inclusion more broadly (see, eg, Park, 2017). Thus, digital exclusion and social exclusion (which can lead to loneliness) are associated.

### *Aetiology of loneliness*

Loneliness is a complex social problem stemming from dissatisfaction with our relationships, a lack of positive and respectful relationships, or both of these. It is often caused by experiences of exclusion due to structural and systemic social realities that form obstacles to participation in social, economic, cultural and political life.

### *Adverse impacts of loneliness*

Loneliness is a public health concern (Heinrich & Gullone, 2006; Holt-Lunstad et al, 2015; Mance, 2018; AIHW, 2019). It has been linked to physical health risks such as being equivalent to smoking 15 cigarettes a day and an increased risk of heart disease (Valtorta, 2016). Loneliness

is a precursor to poorer mental health outcomes, including increased suicidality (Calati et al, 2019; McClelland et al, 2020; Mushtaq, 2014).<sup>2</sup>

### *Why Relationships Australia prioritises addressing loneliness and building social inclusion*

Relationships Australia has a particular interest in isolation and loneliness. We are invested in supporting respectful and sustainable relationships not only within families, but within and across communities. Relationships Australia is uniquely positioned to speak on isolation and loneliness as we have clinical experience supporting clients who experience loneliness, have conducted pioneering research into who experiences loneliness (eg Mance, 2018), and manage a social connection campaign, Neighbour Day,<sup>3</sup> which supports people to create connections which combat loneliness. In our clinical practice and our advocacy, we apply a social model of loneliness which recognises systemic and structural barriers that inhibit people from making fulfilling social connections and from participating as fully as they would wish in all facets of our community.

These barriers are experienced with particular acuteness by the following groups with whom Relationships Australia works daily:

- First Nations people
- people with disability
- people who come from culturally and linguistically diverse backgrounds (including people who have chosen to migrate and people who have sought refuge)
- people affected by complex grief and trauma, intersecting disadvantage and polyvictimisation
- people living with intergenerational trauma and survivors of all forms of abuse, including institutional abuse
- people experiencing mental ill-health
- people experiencing homelessness or housing precarity
- people who identify as members of the LGBTIQ+ communities, and
- younger and older people.

### *The ACMA's role in prioritising social inclusion*

Relationships Australia has welcomed the Government's prioritisation of improvements to mental health and suicide prevention services, and the substantial funding, announced in May 2021, for mental health and suicide prevention measures under the *National Mental Health and Suicide Prevention Plan*.<sup>4</sup> Mental health and suicide prevention are cross-cutting issues, and the prioritisation accorded them requires policy makers across all portfolios and agencies to take into account potential impacts on mental health.

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<sup>2</sup> The campaign *Ending Loneliness Together* has released a guide that explains how community organisations can use validated scales to measure loneliness: [https://endingloneliness.com.au/wp-content/uploads/2021/08/A-Guide-to-Measuring-Loneliness-for-Community-Organisations\\_Ending-Loneliness-Together.pdf](https://endingloneliness.com.au/wp-content/uploads/2021/08/A-Guide-to-Measuring-Loneliness-for-Community-Organisations_Ending-Loneliness-Together.pdf)

<sup>3</sup> Neighbour Day is Australia's annual celebration of community, encouraging people to connect with their neighbours. Neighbours matter (whether near, far, or online), and now, more than ever, is the time to make creative connections and to stay connected; see <https://neighbourday.org/>

<sup>4</sup> See <https://www.pm.gov.au/media/historic-2-3-billion-national-mental-health-and-suicide-prevention-plan>

### *Digital exclusion*

In this instance, Relationships Australia considers that to address loneliness, we must address the structural and social barriers which inhibit participation and connection - digital exclusion is one of these barriers.

The *Australian Digital Inclusion Index 2020* identified that

Across the nation, digital inclusion follows some clear economic and social contours. In general, Australians with lower levels of income, employment, and education are significantly less digitally included. There is consequently a substantial digital divide between richer and poorer Australians. (Thomas & Barraket et al, 2020, p 5)

Other cohorts experiencing disproportionate digital exclusion have been observed to include:

- people living outside urban areas
- students from lower income households, whose lack of online access has compounded the educational disruption caused by COVID-19
- older Australians, and
- First Nations people.

Other literature has also noted digital exclusion among refugee migrants (Alam and Imran, 2015) and people who live remotely (Ali, Alam & Taylor, 2020). Education, employment status, and (inevitably) unaffordability of online access have also been identified as exacerbating the digital divide (Park, 2017).

The authors of the Digital Inclusion Index concluded in 2020 that

Digital inclusion should take a central role in national policy making and planning, with a greater degree of coordination across sectors and the different levels of government. With the NBN now substantially completed, and the economic and social effects of the pandemic becoming clearer, Digital Ability and Affordability are critical areas for attention. (Thomas & Barraket et al, 2020, p 7)

*Recommendation 1:* The Government should undertake a surge of policy and programme effort to close the digital divide to minimise the extent to which economic and social disadvantage, and other vulnerable circumstances, translate into barriers to participation in the social, economic, political and cultural dimensions of the digital environment ('digital participation').

### **Telco behaviour towards people experiencing digital exclusion – the ACMA's role in driving cultural change**

Relationships Australia welcomes this initiative by the ACMA, given that the telecommunications sector has demonstrated a culture of incentivising exploitation of people experiencing vulnerable circumstances and barriers to digital participation. The opportunities for exploitation are more numerous, and more lucrative, because of the complexity of the goods and services in this particular marketplace, and the asymmetries of information and power that can impair customers' ability to make informed choices. This impairment can be exacerbated by any of the barriers, or any intersection of the barriers, previously noted in this submission. We welcome the ACMA's consideration of these realities faced by so many of our clients. A statement of

expectation, supported by timely exercise of regulatory powers and sanctions that are proportionate to the harms flowing from digital exclusion, could be vital in shifting the culture of this marketplace towards maximum digital participation by consumers who are informed, empowered and treated fairly.

Lax approaches to regulation of trust-critical services such as banking and aged care have allowed grievous harm to be inflicted on countless Australians. This was amply demonstrated through the Final Reports of the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry and the Royal Commission into Aged Care Quality and Safety. The banking, superannuation and financial services sector, and the aged care sector, were ostensibly subject to market entry/accreditation criteria and ongoing regulatory oversight. Yet providers and regulators notably failed at their respective tasks, over many years, to the acknowledged detriment of individuals and families who trusted them. Despite a welter of reforms, it is too early to be confident that the financial system or the aged care system have accomplished the enormous tasks of cultural transformation that would enable Australians to have confidence in them.

As an essential service, these observations apply also to the telecommunications sector. This, too, is a sector with a regrettable track record when it comes to dealing with people facing systemic and structural barriers. A recent example can be found in the orders of the Federal Court that Telstra pay \$50 million in penalties for unconscionable conduct in selling mobile phone contracts to First Nations people across three states and territories.<sup>5</sup> Those orders followed action by the ACCC. We note that the ACMA itself has recently found it necessary to issue a Remedial Direction to Telstra for, *inter alia*, failing to inform almost 50,000 customers that promised internet speeds were not being delivered.<sup>6</sup>

We urge that Government resource the ACMA to fulfil and prioritise its regulatory functions in respect of consumers who face the prospect of digital exclusion (and thus social exclusion) because they encounter a range of systemic and structural barriers. The regulator should be sufficiently resourced to prioritise prompt identification and action on systemic issues, as well as dealing professionally and compassionately with individual consumer complaints.

We further urge that Government adopt co-design principles in finalising a statement of expectations, acknowledging the unique wisdom that emerges from lived experience of structural and system barriers. Particular attention should be paid to offering First Nations people a culturally safe experience in engaging with the ACMA and with the telco sector, having regard to the recent Federal Court orders in respect of Telstra's conduct.

### *Recommendation 2*

The ACMA should proactively identify and initiate regulatory measures necessary to achieve behavioural shift in the telecommunications sector away from incentivised exploitation of people experiencing vulnerable circumstances and barriers to digital participation, and towards a culture that supports maximum digital participation by informed and empowered consumers.

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<sup>5</sup> See ACCC media release of 13 May 2021 at <https://www.accc.gov.au/media-release/>

<sup>6</sup> See ACMA media release of 7 July 2021 at <https://www.acma.gov.au/articles/2021-07/telstra-fails-inform-customers-under-delivering-internet-speeds>

### *Recommendation 3*

The ACMA should adopt co-design principles to inform development of a statement of expectation, approaching consumers and peak organisations with lived experience of barriers and asymmetries of information and power with the telco sector, including but not limited to:

- safety concerns (including family and domestic violence, elder abuse, institutional abuse and technology facilitated abuse)
- poverty
- low literacy
- homelessness and housing precarity
- disability
- language barriers
- mental poor health, and
- geographic barriers.

As an essential element of co-design, Government should also seek advice on how the statement of expectations, and the mechanisms by which those expectations are realised, can be made culturally safe.

### **Issues for comment**

Relationships Australia has confined its responses to the issues for comment to Issues 1, 2 and 3, consistent with our focus on the critical importance of digital inclusion to nurturing social inclusion, and to minimising social isolation and loneliness, with its pervasive effects on individuals and society more broadly.

#### Issue 1: Identifying customers in vulnerable circumstances

Relationships Australia agrees that telcos should consider consumer vulnerability in terms of circumstances that create risks of harm, detriment or disadvantage in consumers' interactions with the telecommunications market. We further suggest that 'detriment or disadvantage' be defined to include digital exclusion from social, economic, political, educational and cultural participation. For example, in assessing the affordability, for a particular consumer, of a product, a telco should take into account the risk of digital exclusion should the consumer be unable to afford the product, leading to disconnection and potentially debt recovery action (which may give rise to a further risk of exclusion from economic participation). That risk should act as a prompt for the telco to offer more affordable products.

### *Recommendation 4*

The ACMA should, for the purposes of the statement of expectations, define 'detriment or disadvantage' to expressly include digital exclusion from social, economic, political, educational and cultural participation.



Issue 2: Setting expectations for telcos – priority areas

2(a) The proposed priority areas

The Draft identifies the following priority areas:

1. internal business practices
2. selling and contracting
3. customer service
4. financial hardship, and
5. disconnection.

Relationships Australia agrees that these priority areas offer a sound framework. We suggest inclusion of an additional priority area that reflects an overarching consideration which has:

- implications across the existing priority areas, and
- a disproportionately adverse effect on consumers facing systemic and structural barriers in engaging with telcos

This consideration relates to what the Draft describes as ‘consumer interaction channels’. We note that the Draft emphasises at numerous points that telcos must offer consumers a menu of ways in which to contact them, and that this menu should not presuppose access to online services, ability to engage with chatbots, or downloading and using apps. There would be value in elevating the expectation that telcos offer consumer interaction channels that are designed to minimise the impact of systemic and structural barriers, to a priority area of its own, since this affects each of the proposed priority areas.

*Recommendation 5*

The ACMA should include an additional and overarching priority area, the **goal** of which should be that

Consumers can engage with their choice of telcos through diverse consumer interaction channels that overcome systemic and structural barriers.

Relevant **outcomes** for that goal could include that all telco customers can:

- engage with their choice of telcos as and when they choose to do so, irrespective of systemic and structural barriers that they may face, and any circumstances of vulnerability they are experiencing, and
- make complaints or get help to fix problems with products and services as easily as they can purchase a product or service.

**Examples** for the proposed additional goal could include that telcos establish consumer interaction channels that:

- enable contact by consumers who experience:
  - low literacy
  - low digital literacy
  - homelessness or housing precarity, and
  - poor online access because of geographic location, and

- accommodate the use of:
  - assistive technology, and
  - interpreter and translation services.

## 2(b) The proposed outcomes for the priority areas

Relationships Australia supports the proposed outcomes for the priority areas. We particularly welcome the emphasis on removing incentives for upselling to customers who experience systemic and structural barriers, or who are otherwise experiencing circumstances in which asymmetries of information and power are exacerbated.

We suggest, however, that the outcomes as presently framed are too modest to drive the kind or degree of cultural shift that needs to occur to meet the ACMA's stated policy objective of the telco market being

...inclusive and responsive to people's circumstances, so markets deliver for all consumers. (Consultation Paper, p 3)

This is because they are framed to focus on process, rather than outcomes. Relationships Australia recommends that the 'outcomes' be re-framed to articulate expectations of changed behaviours of telcos and their staff/franchisees, as evidenced by impacts on consumer experience.

### *Recommendation 6*

The ACMA should frame the outcomes for each priority area to describe expected impacts on consumers and expected behaviours of telcos, their staff, franchisees and agents.

## **Conclusion**

Thank you again for the opportunity to contribute to this vital initiative; Relationships Australia warmly welcomes the emerging attention of governments on how structural and systemic barriers affect economic, social, cultural and political participation. Effective dismantling of these barriers is a prerequisite for Australia to flourish as a vibrant, inclusive nation, and is a shared project for governments, businesses, NGOs, communities and individuals. Should you wish to discuss any aspect of this submission, please do not hesitate to contact me at 02 6162 9300 / [ntebbey@relationships.org.au](mailto:ntebbey@relationships.org.au) or our National Policy Manager, Dr Susan Cochrane at 02 6162 9300 / [scochrane@relationships.org.au](mailto:scochrane@relationships.org.au).

Kind regards



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