

30 July 2021



Productivity Commission

4 National Circuit
Barton ACT 2600

By online submission

Dear Commissioners,

RE: Draft Report on the Right to Repair

Communications Alliance is the primary telecommunications industry body in Australia. Our membership is drawn from a wide cross-section of the communications industry, including carriers, carriage and internet service providers, content providers, equipment vendors, IT companies, consultants and business groups.

We are writing this letter in support of the Australian Mobile Telecommunications Association (AMTA) submission to the Draft Report on the Right to Repair inquiry. AMTA specifically addressed issues relating to mobile phones in the report's information requests and draft proposals. Communications Alliance would like to reinforce, in particular, the concerns AMTA has highlighted about safety of devices and security of information.

As our membership also includes telecommunications companies that manufacture, use or provide devices such as modems, satellites and other equipment beyond mobile phones, we would like to add some further comments, and address some issues not raised in AMTA's submission.

Regulatory and complaints recommendations

Draft recommendations 3.2 and 3.3 both present some possibility of duplication with the existing telecommunications dispute resolution body, the Telecommunications Industry Ombudsman (TIO).

Draft recommendation 3.2 is particularly relevant, as the TIO's [recent review of its Terms of Reference](#) has raised the increasing likelihood of overlaps between state tribunals and the TIO in the area of connected devices.¹ In our submissions to that review, Communications Alliance has raised the competition issues and likely confusion if consumers are able to approach both the TIO and a state tribunal (or, if recommendation 3.2 is implemented, a state regulator) for the same device, or if there is a lack of clarity on which body to approach.

We do not have a particular viewpoint on this recommendation, but if it is to be implemented, we strongly recommend extensive consultation and discussions about the scopes of both the state alternative dispute resolution mechanisms and the TIO as it relates to mobile phones and other connected devices.

¹ Communications Alliance's original submission to the ToR Review – the relevant issues regarding overlap with state bodies are on pages 11 and 12: [September 2020 Submission](#)

Communications Alliance's supplementary submission to the ToR Review, with further information on these jurisdictional questions on pages 2 and 3: [December 2020 Letter](#)

Regarding recommendation 3.3, it would not be appropriate for complaints that have been considered (or are being considered) by either the TIO or the telecommunications regulator, the Australian Communications and Media Authority (ACMA) to be considered through this mechanism. Such duplication would create unnecessary burdens on industry and confusion regarding the appropriate regulator or dispute resolution body for telecommunications matters. Similar to our comments on recommendation 3.2, if this recommendation is to be implemented, there should be a clearly established scope that does not allow for overlap to avoid any negative consequences.

Potential for harm

We are concerned by the Commission's assertion in the draft report that security concerns may be overstated. Cybersecurity is a key focus for Government,² and the ACCC is actively working to educate and protect consumers from scams.

One such example of harm is that unauthorised repairers may use uncertified (cheaper) parts or install uncertified firmware on devices – both of which can make these devices vulnerable to hacking and illegal interceptions. With the increasing use of tools such as SMS verification for bank transfers or the proposal of Digital Identity Legislation,³ the security of individual mobile phones is becoming increasingly important. Our previous submission provided other examples of security or safety issues which could arise from the use of uncertified replacement parts or firmware.

AMTA's submission provides further information about the possibility of harm if manufacturers are required to disclose data behind digital locks. We also understand that the Australian Information Industry Association (AIIA) has provided further information on this topic to the Commission, and while we have not had an opportunity to formally endorse that information as an organisation, we would strongly encourage the Commission to consider the information provided by the AIIA.

Other markets and devices

Our understanding of the Commission's Draft Report is that the currently proposed changes mostly relate to mobile devices – however, we would like to address the importance of providing a clear scope for any such changes.

There are many consumer-purchased devices which connect to or impact telecommunications networks, including – for example - modems, satellite receivers and cellular mobile repeaters.

In addition to the importance of retaining high levels of security mentioned in the previous section, there are strict operational requirements for each of these to ensure they do not interfere with the operation of those networks – and therefore connectivity for the broader population. For example, a non-compliant two-way radio could block services such as emergency calling.⁴

Allowing unauthorised third-party repairers to work on these devices, and/or to use unapproved replacement parts, could both impact connectivity and create risks to communication networks – which are deemed critical infrastructure by Government and subject to extensive rules and regulations to ensure they are protected.⁵

² [Cyber security strategy \(homeaffairs.gov.au\)](https://www.homeaffairs.gov.au/cyber-security/cyber-security-strategy)

³ [Communications Alliance submission to Digital Identity Legislation Proposal Paper](#)

⁴ [Beware of radios from overseas | ACMA](#)

⁵ [Critical Infrastructure Resilience Strategy: Policy Statement \(cicentre.gov.au\)](#)

Existing commercial arrangements

In addition to the current protections under the ACL, there are also commercial arrangements that may be impacted by proposed changes, such as return material/merchandise authorisation arrangements.

Additionally, there are business-to-business sales and contract models where customers have specific service contracts for replacing certain equipment within a specific time frame. These customers are fully protected, and such contracts should be excluded from any proposed changes.

Thank you for your consideration of our submitted material. Please contact Jessica Curtis, Policy and Regulation Manager if you have any questions, and we would also be pleased to facilitate a conversation with our members to further discuss security, technical or other matters raised in our or any submission.

Yours sincerely,

John Stanton
Chief Executive Officer