

PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

Interim report on better corporate engagement with Aboriginal and Torres Strait Islander consumers: an issues paper

House of Representatives Standing Committee on Indigenous Affairs

March 2022
CANBERRA

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The Indigenous Affairs Committee acknowledges the Aboriginal and Torres Strait Islander peoples of this nation and the traditional custodians of Country throughout Australia. The Committee pays respects to ancestors and Elders past, present, and future, and is committed to honouring Aboriginal and Torres Strait Islander peoples' unique cultural and spiritual relations to land, waters and seas.

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Foreword

In recent years there have been some very stark examples of not just poor practices but, in fact, corporate malfeasance towards Aboriginal and Torres Strait Islander consumers. These include the findings of the Banking Royal Commission in 2019 especially on the sale of funeral insurance products, the \$50 million fine imposed on Telstra last year for unconscionable conduct in some of its stores and Woolworths' failure to adequately consult Aboriginal and Torres Strait Islander Peoples on their proposed Dan Murphy's Store in Darwin.

It was disappointing to hear evidence that despite these high profile cases, bad corporate behaviour towards Aboriginal and Torres Strait Islander consumers continues to exist in certain market sectors including financial services and telecommunications.

At the same time there will be examples of good corporate behaviour towards Aboriginal and Torres Strait Islander consumers. Reconciliation Australia is playing an important role seeking to improve corporate behaviour through Reconciliation Action Plans; and in egregious cases, downgrading or removing RAPs as a public admonishment of bad corporate behaviour.

This inquiry was referred by the Minister for Indigenous Australians in October 2021. Unfortunately given the limited timeframe to gather evidence and consult with stakeholders and COVID related travel restrictions, it was not possible for the Committee to finish gathering evidence of corporate malfeasance against Aboriginal and Torres Strait Islander consumers nor to put that evidence to the impugned businesses for their response.

Given the short time remaining in this Parliament the Committee decided, therefore, to present this interim report, in the form of an issues paper for consideration by the new committee, rather than a final report.

The evidence gathered so far highlighted a number of core issues that warrant further detailed scrutiny including:

- The future evolution of the Reconciliation Action Plan (RAP) program and whether it is effective in promoting cultural awareness and appropriate behaviour among Australian corporations. A RAP document cannot just be a 'box-ticking' exercise. It has to become, and remain, an integral part of the practices of the business at all levels.
- The impact of ongoing poor behaviour in the telco sector and of telecommunications debts accumulated by many in Aboriginal and Torres Strait Islander communities, notwithstanding the important Telstra ruling and financial penalty.
- The continued behaviour by banks and other financial services businesses which take unfair advantage of the poor financial literacy of some Aboriginal and Torres Strait Islander consumers.
- The predatory practices of certain payday-style lenders, car finance operations, and funeral insurance businesses that operate outside the reach of regulators.

The Committee would like to see this inquiry re-referred at the beginning of the next Parliament. The newly formed committee will then have ample time to explore these issues in greater depth and make appropriate recommendations.

I want to acknowledge that several businesses in the financial services and telecommunications sectors did make submissions to this inquiry and any future committee will need to hear from them after finishing its evidence gathering process.

Also as this report was being finalised the Committee became aware that funeral insurer Aboriginal Community Benefit Fund, which was cited by the Royal Commission for its bad conduct, has now gone into liquidation potentially leaving thousands of people significantly out of pocket. This will need to be further considered in the next Parliament.

The Committee hopes that this issues paper will serve as a useful starting point for the new committee to continue this important work.

I wish to acknowledge my committee colleagues, in particular the good counsel of the Deputy Chair the Hon Warren Snowden MP who after a long and distinguished parliamentary career advancing the position of Aboriginal and Torres Strait Islander people retires in a few weeks' time. I also wish to acknowledge the work of the secretariat, in particular Kilian Perrem and Jenny Adams, who have supported this committee through the life of this Parliament and the assistance of Sarah Greenbaum from my office.

Julian Leeser MP

Chair

Members

Chair

Mr Julian Leeser MP

Deputy Chair

Hon Warren Snowdon MP

Members

Ms Sharon Claydon MP

Hon Warren Entsch MP

Ms Celia Hammond MP

Ms Anne Stanley MP

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Louise Milligan, Senior Researcher

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Terms of Reference

The House Standing Committee on Indigenous Affairs should consider, report and where appropriate make recommendations on:

- 1 The way the corporate sector supports meaningful engagement with Indigenous consumers
- 2 How to strengthen corporate sector cultural understanding, and how this is demonstrated through their engagement with Indigenous consumers
- 3 The impact of Reconciliation Action Plans (RAPs) in developing targeted approaches on engaging with Aboriginal and Torres Strait Islander peoples through such action; and
- 4 Other matters as required.

Abbreviations

ABC	Australian Broadcasting Corporation
ACCAN	Australian Communications Consumer Action Network
ACCC	Australian Competition and Consumer Commission
ACSI	Australian Council of Superannuation Investors
AFCA	Australian Financial Complaints Authority
AMSANT	Aboriginal Medical Services Alliance Northern Territory
CEO	Chief Executive Officer
FNMA	First Nations Media Australia
HKTC	HK Training and Consulting
ICAN	Indigenous Consumer Assistance Network
NAAJA	North Australian Aboriginal Justice Agency
NSW ALC	New South Wales Aboriginal Land Council
RAP	Reconciliation Action Plan
SACCs	Small Amount Credit Contracts
WRB	Workplace RAP Barometer

1. Introduction

Referral of the inquiry

- 1.1 On 26 October 2021, the Minister for Indigenous Australians, the Hon Ken Wyatt MP, requested that the House of Representatives Standing Committee on Indigenous Affairs consider an inquiry into how the corporate sector establishes models of best practice to foster better engagement with Aboriginal and Torres Strait Islander consumers.
- 1.2 The committee adopted the inquiry and its terms of reference on 28 October 2021. The terms of reference are listed on page xiii of this report.

Conduct of the inquiry

- 1.3 The inquiry received 25 submissions and 5 supplementary submissions. These are listed at Appendix A. The committee conducted six public hearings by videoconference and teleconference. These are listed in Appendix B. In-person hearings and interstate travel were not possible due to continuing restrictions caused by the COVID-19 pandemic.

Report structure and themes

- 1.4 This interim report is presented as an issues paper. The decision of the committee to prepare an interim report only was based on the short timeframe available to conduct the inquiry before the conclusion of the 46th Parliament. The inability to travel due to the ongoing COVID-19 pandemic was also a factor in the committee's decision not to present a final report. Given our restricted time frames and limitations on travel we have not concluded gathering evidence of misfeasance by corporations against Indigenous consumers. Accordingly, while that process remains incomplete,

we have also not put the evidence gathered to the impugned corporations for their response.

- 1.5 This interim report makes no formal recommendations and will therefore not require a response from the Australian Government. The issues highlighted herein are intended to initiate discussions by the future members of this committee in the next Parliament about whether to seek a rereferral of this inquiry from the Minister.
- 1.6 Chapter 2 of the report discusses core issues raised in the submissions and at the public hearings on engagement by the corporate sector with Aboriginal and Torres Strait Islander consumers and communities, on:
 - the current state of cultural awareness within the corporate sector
 - the background, operation, and impact of Reconciliation Action Plans
 - critical market sectors for Aboriginal and Torres Strait Islander consumers and impacts of poor corporate behaviour.
- 1.7 Chapter 3 provides committee comment on the issues and offers some future considerations. It is the committee's view that important matters have been raised in the initial evidence to this inquiry that need to be investigated further in the next Parliament.

2. Issues for further inquiry

Cultural awareness of the Australian corporate sector

- 2.1 The evidence presented to the inquiry so far suggested a lack of cultural awareness by Australian businesses is a contributing factor to poor engagement with Aboriginal and Torres Strait Islander consumers.
- 2.2 The Indigenous Consumer Assistance Network (ICAN) informed the committee, at the public hearing on 18 November 2021, that cultural awareness and competency training ‘starts with understanding the communities you’re engaging with, which are geographically and culturally diverse.’¹
- 2.3 Many organisations provide cultural awareness programs to their employees. Reconciliation Australia indicated in its submission that strengthening cultural understanding forms a key aspect of an organisation’s Reconciliation Action Plan (RAP), and that RAP partners are supported to progressively grow staff participation in cultural awareness training.² RAPs are discussed in more detail in the next section.
- 2.4 Reconciliation Australia further submitted that, as at June 2021, its RAP partners had facilitated cultural learning to 469,795 employees. Its 2020 Workplace RAP Barometer (WRB), that measures the impact of the RAP program, found that ‘employees who participated in cultural competency training were...more likely to have high knowledge of Aboriginal and

¹ Ms Anderson, ICAN, *Committee Hansard*, Conference Call, 18 November 2021, p. 7.

² Reconciliation Australia, *Submission 18*, pp. [10–11].

Torres Strait Islander histories (48 per cent) than those who had not participated (28 per cent).³

- 2.5 The WRB also found that cultural awareness training correlated to a higher knowledge of Aboriginal and Torres Strait Islander cultures (42 per cent versus 22 per cent).⁴
- 2.6 There were criticisms among contributors to the inquiry however that many of the existing cultural awareness training programs undertaken by Australian businesses and corporate entities were not effective.
- 2.7 Bush Money Mob indicated in its submission that while such training initiatives were ‘a step in the right direction’ things did not seem to have improved as a result.⁵ Some of the possible reasons for this were cited in different submissions, including vague or generalised training, ie, not sufficiently localised, a lack of focus on cultural inclusion, and little recognition of intangible heritage.⁶
- 2.8 A number of contributors to the inquiry discussed the types of training and service delivery that Australian businesses should be adopting to enhance their cultural awareness.
- 2.9 The New South Wales Aboriginal Land Council (NSW ALC) submitted that cultural training and service delivery should be suited to local communities, further suggesting that increasing Aboriginal and Torres Strait Islander employment opportunities will increase chances for greater cultural understanding; and that employing Aboriginal and Torres Strait Islander supervisors and mentors could further enhance knowledge development.⁷
- 2.10 The North Australian Aboriginal Justice Agency expressed the view that cultural training should be on a regular basis, further recommending to the committee that organisations ‘seek out cultural competency training from cultural authorities and elders.’⁸

³ Reconciliation Australia, *Submission 18*, pp. [10–11].

⁴ Reconciliation Australia, *Submission 18*, pp. [10–11].

⁵ Bush Money Mob, *Submission 1*, p. [3].

⁶ Bush Money Mob, *Submission 1*, p. [3]; HESTA, *Submission 5 – Attachment 2*, p. 4; Ms Daphne Naden, Board Member, ICAN, *Committee Hansard*, Conference Call, 18 November 2021, p. 10.

⁷ New South Wales Aboriginal Land Council (NSW ALC), *Submission 9*, p. 2.

⁸ Mrs Sarah Black, Lead Solicitor, Debt and Consumer Law, North Australian Aboriginal Justice Agency (NAAJA), *Committee Hansard*, Conference Call, 10 February 2022, p. 1.

- 2.11 ICAN stated, at the public hearing on 18 November 2021, that ‘cultural awareness [training] should be localised’ and emphasised that if an organisation is working in or with remote communities, staff should be taught about the remoteness of those communities; what it takes to get to a community; and how long it takes to get there. Additionally, ICAN recommended that localised training should acknowledge that not all Aboriginal and Torres Strait Islander peoples speak English as a first language, as this can impede the ability of staff to build relationships and provide services.⁹
- 2.12 First Nations Media Australia (FNMA) stated in its submission that ‘ongoing education is required for the corporate sector to strengthen cultural understanding’ and further noted that individuals often participate in cultural awareness and competency training as part of their initial induction only or if their role involves engagement with Aboriginal and/or Torres Strait Islander communities. FNMA recommended a ‘whole-of-business’ training approach, that goes beyond a one-off session, should be implemented to embed cultural understanding and consideration into ‘the fabric of corporations.’¹⁰
- 2.13 The Australian Council of Superannuation Investors (ACSI) noted in its submission that in 2020 only 38 per cent of ASX200 companies ‘disclosed information [relating] to their engagement with Aboriginal and Torres Strait Islander peoples, or their approach to managing...risks that arise from poor engagement.’
- 2.14 ACSI further noted ‘significant examples’ of poor engagement by corporate organisations—highlighting Rio Tinto’s destruction of culturally significant sites at Juukan Gorge, and the Dan Murphy’s liquor store development proposal in Darwin by Woolworths.¹¹

Reconciliation Action Plans

Background and operation

- 2.15 The principal framework for developing systems to appropriately engage with Aboriginal and Torres Strait Islander peoples is the RAP program administered by Reconciliation Australia, an independent, not-for-profit

⁹ Ms Naden, ICAN, *Committee Hansard*, Conference Call, Thursday, 18 November 2021, p. 10.

¹⁰ First Nations Media Australia (FNMA), *Submission 10*, p. 4.

¹¹ Australian Council of Superannuation Investors, *Submission 15*, p. 2.

organisation.¹² The core purpose of a RAP, as stated by Reconciliation Australia, is to 'enable organisations to sustainably and strategically take meaningful action to advance reconciliation'.¹³

2.16 The RAP program was first launched in 2006 to enable organisations to integrate the principles and purpose of reconciliation into their business operations.

2.17 Each RAP type is designed for the different stages at which organisations and corporations are pursuing reconciliation goals, summarised as follows:

- Reflect: The initial level of a RAP, which lasts for 12 months and involves steps to prepare for reconciliation initiatives in future RAPs;
- Innovate: A second level RAP, which lasts two years. This RAP involves a deeper level of understanding of an organisations sphere of influence in order to establish the best approaches to advancing reconciliation;
- Stretch: A third level RAP, lasting two to three years, and suits organisations that have developed strategies and established a strong approach towards advancing reconciliation; and
- Elevate: The highest-level RAP is for organisations with a proven track record of embedding effective RAP initiatives into their organisation.¹⁴

2.18 For an organisation to obtain a RAP they must engage with Reconciliation Australia and the most appropriate RAP type will then be determined by collaboration.¹⁵

2.19 Reconciliation Australia has accountability mechanisms to address any problems that occur. If it receives a complaint, it will engage with the RAP partner organisation to investigate and respond.¹⁶

¹² Ms Karen Mundine, Chief Executive Officer (CEO), Reconciliation Australia, *Committee Hansard*, Conference Call, 2 December 2021, p. 1.

¹³ Reconciliation Australia, *Reconciliation Action Plans*, <www.reconciliation.org.au/reconciliation-action-plans/>, viewed 21 February 2022.

¹⁴ Reconciliation Australia, *The RAP Framework*, <www.reconciliation.org.au/reconciliation-action-plans/the-rap-framework/>, viewed 21 February 2022.

¹⁵ Reconciliation Australia, *Submission 18*, p. 8.

¹⁶ Reconciliation Australia, *Submission 18*, p. 9.

2.20 In terms of the sectoral adoption of the RAP program, Reconciliation Australia informed the committee that:

... of the existing 2,080 organisations within the RAP network, 958 organisations (46 per cent) are private. While not all would be considered “corporate,” the vast majority are for-profit businesses.¹⁷

2.21 Reconciliation Australia further informed the committee that this network comprises 1,090 Reflect RAPs, 812 Innovate RAPs, 159 Stretch RAPs, and 20 Elevate RAPs, and that 25 per cent of Australia’s work force is directly impacted by a RAP.¹⁸

The positive impacts of RAPs

2.22 The majority of the evidence to the inquiry on the RAP program indicated that it is generally viewed positively, and is seen as a valuable framework to improve cultural understanding and engagement of businesses with Aboriginal and Torres Strait Islander peoples.

2.23 Reconciliation Australia’s 2021 RAP impact measurement questionnaire found that 58,882 Aboriginal and Torres Strait Islander peoples were employed by RAP organisations, and that goods and services to the value of more than \$2.7 billion were procured from Aboriginal and Torres Strait Islander businesses.¹⁹

2.24 The Workplace RAP Barometer (WRB) used by Reconciliation Australia to measure the impacts of the program found in 2020 that 78 per cent of employees at RAP organisations are proud of Aboriginal and Torres Strait Islander cultures compared to 64 per cent in the general population. The WRB further found that 81 per cent of Aboriginal and Torres Strait Islander employees at RAP organisations reported that they can ‘always be true to their culture while at work’, compared to 69 per cent in the general population.²⁰

2.25 The 2020 WRB also provided evidence that RAPs enhance the capability of organisations to meaningfully engage with Aboriginal and Torres Strait Islander peoples. It found that 62 per cent of RAP employees reported that the RAP had a positive impact on building such relationships. In addition,

¹⁷ Reconciliation Australia, *Supplementary Submission 18.1 (responses to questions on notice)*, p. 2.

¹⁸ Reconciliation Australia, *Submission 18*, p. 7.

¹⁹ Reconciliation Australia, *Submission 18*, p. 7.

²⁰ Reconciliation Australia, *Submission 18*, p. 7.

60 per cent believed that having a RAP helped to reduce prejudice against Aboriginal and Torres Strait Islander peoples.²¹

- 2.26 The Australian Competition and Consumer Commission (ACCC) stated in its submission that ‘corporate RAPs can help drive positive business practices’. The ACCC used Australian Credit Licence compliance as an example of where integration of the intent of a RAP into business practices and processes can help to minimise harm to Aboriginal and Torres Strait Islander peoples.²²
- 2.27 Mob Strong Debt Help expressed the view that RAPs are an important exercise for financial services and a valuable step for companies that have not considered how their services might affect Aboriginal and Torres Strait Islander customers.²³
- 2.28 FNMA discussed the positive impact of the RAP program in the communications sector and provided the ABC’s Elevate RAP as an example of positive changes to the way it works with the Aboriginal and Torres Strait Islander media sector.²⁴
- 2.29 At the public hearing on 25 November 2021, the Consumer Action Law Centre noted that companies that have a RAP tend to be more trusted by Aboriginal and Torres Strait Islander peoples.²⁵
- 2.30 The Consumer Action Law Centre also discussed the importance of companies engaging with communities in the process of developing RAPs stating:
- ... when developing these Reconciliation Action Plans, it’s really, really important that these companies and the corporate sector actually engage with community and with external community consultants who are experienced in developing these plans as well. If it’s coming from community and community is telling the corporate sector what they want and what they know that they need, we find that they actually are really useful and really valuable.²⁶

²¹ Reconciliation Australia, *Submission 18*, p. 7.

²² Australian Competition and Consumer Commission, *Submission 8*, p. 6.

²³ Financial Rights Legal Centre and Mob Strong Debt Help, *Submission 12*, p. 12.

²⁴ FNMA, *Submission 10*, p. 5.

²⁵ Ms Samantha Rudolph, Policy Officer, Consumer Action Law Centre, *Committee Hansard*, Conference Call, 25 November 2021, p. 4.

²⁶ Ms Rudolph, Consumer Action Law Centre, *Committee Hansard*, Conference Call, 25 November 2021, p. 4.

2.31 The Consumer Action Law Centre also emphasised the importance of cultural awareness, through a RAP, at the highest levels of an organisation, stating:

...what we've found is that, if a Reconciliation Action Plan becomes a priority for board members as well as CEOs, that culture then filters through the company and through the corporation.²⁷

Shortfalls in the current RAP program

2.32 A number of contributors to the inquiry expressed concerns that RAPs were sometimes being used by corporate entities for image purposes only, or as a 'tick and flick' exercise. The Aboriginal Medical Services Alliance Northern Territory (AMSANT) expressed the view, at the public hearing on 17 February 2022, that some businesses were establishing RAPs to enhance their reputation as good corporate citizens, rather than improve their engagement strategies:

...some of them [RAPs] aren't worth the paper that they're written on. They're a bit of a tick being given to Reconciliation Australia. 'Yes, we're all good corporate citizens; we've got a RAP in place'... unless there are real, concrete, firm actions and processes about engagement, particularly around the big stuff like alcohol and things that have a detrimental impact on communities, and the most vulnerable communities—those documents, if they're to serve a purpose, need to have some of the genuine actions...²⁸

2.33 A lack of proper commitment to a RAP was addressed by a number of submitters to the inquiry. NSWALC concurred that RAPs can sometimes be considered a box-ticking exercise, with organisations putting minimal effort into reconciliation practices.²⁹ Various contributors to the inquiry expressed the view that problems with committing to a RAP can come from a disconnect between them and corporate practices, and that this can be caused by the delegation of RAP implementation to under-funded small teams that are adjacent to the core business.³⁰

²⁷ Ms Rudolph, Consumer Action Law Centre, *Committee Hansard*, Conference Call, 25 November 2021, p. 4.

²⁸ Mr John Paterson, CEO, Aboriginal Medical Services Alliance Northern Territory (AMSANT), *Committee Hansard*, Conference Call, 17 February 2022, p. 5.

²⁹ NSW ALC, *Submission 9*, p. 3.

³⁰ NSW ALC, *Submission 9*, p. 3; Financial Counselling Australia, South East Community Links, HK Training and Consulting (HKTC), and MoneyMob Talkabout, *Submission 23*, p. 9.

- 2.34 FNMA submitted that there is little evidence of RAPs being understood and implemented across the corporate sector in mid-level management, marketing, and promotional and communication activities and stated that an understanding of RAP commitment needs to be strengthened.³¹ FNMA also stressed the importance of RAPs being understood by department heads, human resources and communication staff so that ‘corporations don’t stifle their own opportunities to benefit from RAPs.’³²
- 2.35 NSWALC has specified some of the specific improvements that need to be made to enhance the RAP program. These include:
- the need to incentivise progression through RAP levels to ensure that organisations are genuinely making impactful changes to their operations;
 - greater accountability and improved institutional integrity, both within and outside of RAP organisations; and
 - the need for increased commitment to Aboriginal leadership in partnerships, as well as acknowledgement of their role in setting priorities for RAPs.³³
- 2.36 The committee notes the views of Reconciliation Australia, emphasised in its submission, that the RAP program is not an all-encompassing system that can provide all of the solutions needed to advance reconciliation:

RAPs are not the sole solution to 250 years of colonisation. And RAP organisations do not get everything right all the time. Rather, RAPs are an accessible and robust framework for organisations to commit to respectful relationships with Aboriginal and Torres Strait Islander peoples, and a useful starting point for the individuals in that organisation to contribute to a more just and equitable society... While RAPs are not intended to replace consumer or other laws or to serve as a regulatory mechanism, as publicly available documents, they are an important tool for public accountability.³⁴

³¹ FNMA, *Submission 10*, p. 5.

³² FNMA, *Submission 10*, p. 6.

³³ NSW Aboriginal Land Council, *Submission 9*, p. 2.

³⁴ Reconciliation Australia, *Submission 18*, p. 8.

Poor corporate behaviour in critical market sectors for Aboriginal and Torres Strait Islander consumers

Background

- 2.37 The evidence to the inquiry highlighted a number of market sectors that provide vital goods and services to Aboriginal and Torres Strait Islander consumers, such as financial and telecommunications services, that display poor corporate behaviour and a lack of understanding and judgement towards their Aboriginal and Torres Strait Islander customers.
- 2.38 There are also goods and services that can have significant negative impacts on Aboriginal and Torres Strait Islander communities, such as alcohol sales and payday lending. Some troubling examples of aggressive and even predatory behaviour were provided to the committee in relation to small unsecured loans, car finance, and telecommunications debt.

Telecommunications and digital services

- 2.39 Inadequate and/or poor corporate behaviour within the telecommunications sector is having negative impacts on Aboriginal and Torres Strait Islander consumers such as debt, high stress and reduced wellbeing.
- 2.40 Some of the activities perpetrated by telecommunication providers include, selling of phone plans inappropriate to customers and manipulative sales practices aimed to sell additional products which are unnecessary to the customers.³⁵ Such practices often lead to debts which can be crippling to Aboriginal and Torres Strait Islander customers with resultant financial hardship.
- 2.41 The Australian Communications Consumer Action Network (ACCAN) cites the ACCC's action against Telstra for their unconscionable conduct towards Indigenous customers as an example.³⁶
- 2.42 The ACCC case against Telstra, which resulted in a \$50 million fine imposed by the federal court, is the starkest example to date of unconscionable conduct against Aboriginal and Torres Strait Islander consumers. Five Telstra stores were found to have engaged in exploitative practices against

³⁵ Australian Communications Consumer Action Network, *Submission 13: Attachment 1*, p. 5; Financial Rights Legal Centre and Mob Strong Debt Help, *Submission 12*, p. 15.

³⁶ Dr Heron Loban, Australian Communications Consumer Action Network (ACCAN), *Committee Hansard*, Conference Call, 15 December 2021, p. 9.

108 customers. Notably, Telstra's 2018–2021 RAP was revoked by Reconciliation Australia as they concluded that Telstra had not met their own aspirations to be a leader in the reconciliation movement or the expectations of an Elevate RAP partner.

- 2.43 Reconciliation Australia noted Telstra have since been invited to begin development of a new Stretch RAP.³⁷ Though ICAN noted Telstra's practices remained a problem:

The most recent Telstra case that was taken through the ACCC and the \$50 million fine that was handed out to them was mainly for conduct in the Territory. I have spoken generally to some other people in the sector who work in that area and they believe it has made an impact. Unfortunately, I still see those sorts of things happening in Queensland.³⁸

- 2.44 Mob Strong Debt Help similarly noted in their testimony that complaints handling remained a problem:

About two weeks ago, one of the solicitors took on one of my cases for me. She emailed a designated First Nations complaints line for Telstra. It bounced. She's put a complaint in; I'm not sure whether she has gotten a response, because she's on leave. I rang Telstra's Indigenous hotline not long after it bounced. I didn't get anybody in the Indigenous department; I was sent to another department. It bounced out to them—I think it was in the overflow section. It was in the middle of the day, so it wasn't an odd time. He was quite surprised I got the overflow section. He checked the email himself. It said it didn't work. He was diligent. He was going to get back to me by lunch time the next day, but it took them about a day and a half to two days to fix their email address that they probably established for their First Nations complaints line.³⁹

- 2.45 Quality of service was also identified as a problem by Financial Counselling Australia:

I would love to see Andy Penn from Telstra go out to one of our remote communities and try to use his mobile phone or the internet to actually do

³⁷ Telstra, *Submission 4*, p. 3.

³⁸ Mr Alex Price-Busch, Board Member, ICAN, *Committee Hansard*, Conference Call, 18 November 2021, p. 9.

³⁹ Mrs Bettina Cooper, Aboriginal Financial Counsellor, Mob Strong Debt Help, *Committee Hansard*, Conference Call, 18 November 2021, p. 19.

some work. It's just going to be impossible unless he stands on one foot and holds his tongue close to his ear, for example.⁴⁰

- 2.46 Consistent with other stakeholders, the Consumer Action Law Centre indicated that to address the negative impacts of poor corporate behaviour, corporations must 'embed cultural competency and safety into their practices', work in partnership with communities and ensure local voices are heard. The Law Centre proposed also that government consult with communities to strengthen the regulation around essential services.⁴¹
- 2.47 The Consumer Action Law Centre expressed the view that 'self-regulation of the telco sector via the Telecommunications Consumer Protections Code has failed to fully deliver good outcomes for many First Nations Customers'. Further adding that misconduct continues to be an issue and that 'there is room for significant improvement in the ways' Aboriginal and Torres Strait Islander peoples are engaged with. To illustrate, the Law Centre further highlighted results from its recent survey of 45 Aboriginal and Torres Strait Islander peoples in Victoria, stating:
- 26 per cent of respondents said that they had been sold extra mobile phones, tablets, pay TV or phone accessories by a telco provider that they did not need for themselves or additional family members;
 - 22 per cent said that they'd had their internet or mobile phone plan disconnected or restricted since March 2020;
 - 20 per cent had sought a payday loan to pay their telco bill; and
 - 26 per cent of respondents had been unable to arrange an affordable payment plan with their telco provider, despite being in financial hardship.⁴²
- 2.48 MoneyMob Talkabout released a report that extensively covered the issue of telecommunications debt in rural and remote Aboriginal and Torres Strait Islander communities. This report found that hundreds of Aboriginal and Torres Strait Islander customers had large mobile phone debts and most of them were unaware that the plans that had been sold to them did not meet consumer protection standards. The report indicated a pattern of sales practices bordering on predatory with significant numbers of people sold

⁴⁰ Ms Lynda Edwards, Coordinator Financial Capability, Financial Counselling Australia, *Committee Hansard*, Conference Call, 18 November 2021, p. 19.

⁴¹ Ms Rudolph, Consumer Action Law Centre, *Committee Hansard*, Conference Call, 25 November 2021, p. 2.

⁴² Ms Rudolph, Consumer Action Law Centre, *Committee Hansard*, Conference Call, 25 November 2021, p. 2.

products they did not need and could not afford, and with sellers being indifferent to issues such as mental illness and homelessness.⁴³

2.49 MoneyMob Talkabout further stated in this regard:

Typically what we see is that people come down to Cairns because the options for purchasing a new device and things like that aren't available in their community. Through engaging with these stores, I've had examples where people have gone in—for example, a woman from the islands went into a Telstra store. She was only doing part-time work when she went to the store. Basically, her initial goal when she went in was to get a phone plan. Whilst she was there she was also offered an additional phone plan on top of the one that she wanted, with a whole bunch of accessories and whatnots on top of it. In that instance it seems clear that she had been targeted based on her unfortunate lack of financial literacy.⁴⁴

2.50 Over the two and a half years in which the research for that report was being conducted MoneyMob Talkabout recorded a total of \$1,123,297 in telecommunications debt. While \$778,469 had been waived, the remaining debt is still a significant number as it related to only 221 Aboriginal and Torres Strait Islander clients.

2.51 A more personal example of problems that Aboriginal and Torres Strait Islander peoples can have with the telecommunication history was shared by the Financial Rights Legal Centre and Mob Strong Debt Help who included a case study in their submission regarding an individual they had worked with (Case study 1).

Case study 1

Deborah is a young mother with a 9 month old baby. Her only income is the Centrelink Parenting Payment and family tax benefit (about \$900 per fortnight). She is living with a friend but this is not stable and she considers herself homeless. When Deborah reached out to Mob Strong for help she was struggling with debts to two pay day lenders, a major Telco company, and a consumer lease company. She was paying off a Centrelink advance as well.

The Telco was pressuring her to commit to a \$150/fortnight payment

⁴³ ACCAN, *Submission 13: Attachment 1*, p. 5.

⁴⁴ Mr Price-Busch, ICAN, *Committee Hansard*, Conference Call, 18 November 2021, p. 8.

which she could not afford. Deborah had no money for food for her and her baby. She is regularly paying overdraft fees to her bank because of all the direct debits going towards her debts.

Mob Strong is helping Deborah with her two unaffordable consumer leases for phones, one for her and one for her mother. In reviewing her bank statements, which were provided to the consumer lease provider, it was clear that a lot of her money was being lost to overdraft fees.⁴⁵

Financial and banking services

- 2.52 Financial and banking services are as important for Aboriginal and Torres Strait Islander consumers as they are for non-Indigenous Australians. Unfortunately, the evidence to the inquiry points to a poor record of engagement and cultural awareness at times in parts of this sector, and a considerable lack of understanding of the unique circumstances and hardships facing some Aboriginal and Torres Strait Islander people.
- 2.53 The committee learned that a number of factors led to poor outcomes experienced by many Aboriginal and Torres Strait Islander people in relation to financial services. Key among these was a low level of financial literacy and a lack of understanding and awareness of this by banks and other lending institutions.
- 2.54 Mob Strong Debt Help in its submission stated in this regard:
- ... a First Nations customer might not have the financial literacy or generational socioeconomic supports to understand or meet the requirements of a contract or product disclosure statement. They may not answer questions put to them in the expected way but answer questions in roundabout ways. However instead of receiving more communication from a service provider to ensure that they have understood, they are simply dismissed, leaving them vulnerable to financial harm.⁴⁶
- 2.55 Financial Counselling Australia emphasised, at the public hearing on 18 November 2021, that there are a number of barriers to Aboriginal and Torres Strait Islander people properly accessing or even understanding financial services or products:

⁴⁵ Financial Rights Legal Centre and Mob Strong Debt Help, *Submission 12*, p. 18.

⁴⁶ Financial Rights Legal Centre and Mob Strong Debt Help, *Submission 12*, pp. 9–10.

'... if we're thinking about the most vulnerable people in Australia, that would be our remote First Nations people, who have very little opportunity to access any type of service, such as banking or superannuation. When you think about some of these communities where the financial literacy levels are extremely low and English is a second or third language, how would they be able to understand what the product is when they get those product statements?'⁴⁷

2.56 Mob Strong Debt Help submitted:

...community values of kinship unique to the Aboriginal and Torres Strait Islander community conflict with concepts of financial independence and self-interested behaviour, making many financial literacy messages appear impractical or incomprehensible... Assumptions regarding financial literacy, and equitable access to fair and competitive financial services and banks simply don't hold true for Aboriginal and Torres Strait Islander communities and render them vulnerable to predatory practices and expose[d] to poor value products.⁴⁸

2.57 The financial services sector has a number of codes of practice to improve consumer confidence, and in some instances reference 'the need to take particular care with respect to First Nations communities.'⁴⁹ As an example, the Banking Code contains a commitment to 'provide services that are inclusive of Indigenous Australians, including in remote communities'. The Banking Code also states that providers 'will take all reasonable steps to mak[e]...banking services accessible' if customers inform them that they are Aboriginal and/or Torres Strait Islander.⁵⁰

⁴⁷ Ms Edwards, Financial Counselling Australia, *Committee Hansard*, Conference Call, 18 November 2021, p. 19.

⁴⁸ Financial Rights Legal Centre and Mob Strong Debt Help, *Submission 12*, p. 3.

⁴⁹ Financial Rights Legal Centre and Mob Strong Debt Help, *Submission 12*, p. 13.

⁵⁰ Australian Banking Association 2020, *Banking Code of Practice*, 'Clauses 32 and 35', <2021-5-Oct-Banking-Code-WEB.pdf (ausbanking.org.au)>, viewed 14 February 2022, p. 21; Financial Rights Legal Centre and Mob Strong Debt Help, *Submission 12*, p. 13.

- 2.58 Evidence to the inquiry from the Financial Rights Legal Centre notes that many major companies within the sector are advertising specific Aboriginal and Torres Strait Islander support services, including via phone and email. The centre suggested this is ‘a sign that companies are acknowledging the unique vulnerabilities or needs’ Aboriginal and Torres Strait Islander customers may have, but also reports that many of these services, in its experience, lack effectiveness, including:
- insufficient promotion/advertising
 - inadequate staffing, without the appropriate authority to address concerns
 - inadequate cultural training.⁵¹
- 2.59 Mob Strong Debt Help further submitted that for these services to work, they must be culturally appropriate to meet community needs and, ideally, managers would be Aboriginal or Torres Strait Islander people, or have had extensive cultural safety training and work with urban, regional and remote First Nations communities, with this training extended to all staff, and be empowered to resolve problems.⁵²
- 2.60 Other submitters agreed that ‘it is critical that dedicated phone lines are staffed by First Nations people who have adequate training to support people in culturally sensitive ways.’⁵³
- 2.61 The Australian Institute of Superannuation Trustees stated in its submission that financial services corporations ‘must understand the needs of Indigenous peoples through ongoing cultural training, [and] better processes that meet the needs of remote customers’.⁵⁴

⁵¹ Financial Rights Legal Centre and Mob Strong Debt Help, *Submission 12*, p. 4.

⁵² Financial Rights Legal Centre and Mob Strong Debt Help, *Submission 12*, pp. 4–5, 9.

⁵³ Financial Counselling Australia, South East Community Links, HKTC and MoneyMob Talkabout, *Submission 23*, p. 4.

⁵⁴ Australian Institute of Superannuation Trustees, *Submission 11*, p. 5.

2.62 ICAN also expressed the view that access to services is challenging, and that banking services are of particular concern. ICAN suggested this is due to centralisation and digitisation, resulting in services that are delivered by staff who have no knowledge of the customers or communities they are servicing. Additionally, ICAN indicated that the closure of bank branches is having significant impact on remote communities:

Getting to know communities and delivering vital services requires that the companies that provide vital services get on the ground regularly and talk with communities. In consultation with communities, banks could be providing regular visits to communities to deliver essential banking services, where people know when the service will be in town and can rely on regular contact.⁵⁵

Payday lending

2.63 An area of great concern raised during the inquiry was the interactions between Aboriginal and Torres Strait Islander consumers and payday-type lending services, ie, short-term unsecured credit. Multiple contributors to this inquiry stated that these arrangements have often led to disastrous consequences for the borrower and can involve predatory behaviour by the lender.

2.64 Small Amount Credit Contracts (SACCs), also known as ‘payday loans’, are unsecured loans of up to \$2,000 with a repayment period of 16 days to a year. These loans can be very costly because they come with high interest rates and can attract high upfront fees and additional charges imposed on borrowers who default on payments.⁵⁶

2.65 Mob Strong Debt Help indicated in its submission why these types of loans were becoming prominent among Aboriginal and Torres Strait Islander communities:

Lending processes which marginalise Aboriginal and Torres Strait Islander people – such as closing regional and remote bank branches, and requiring the production of mainstream identification documents not readily available to many members of the community – make low doc, high cost payday lending

⁵⁵ Ms Anderson, ICAN, *Committee Hansard*, Conference Call, 18 November 2021, p. 7.

⁵⁶ Consumer Action Koori Help and Victorian Aboriginal Legal Service, *Submission 22: Attachment 1*, p. 47; Financial Rights Legal Centre and Mob Strong Debt Help, *Submission 12*, pp. 22–23.

[etc] more readily accessible and available. It also exposes consumers to increased risk of financial harm.⁵⁷

2.66 Such loans can trap people on low incomes into a spiral of debt. Consumer Action Koori Help and Victorian Aboriginal Legal Service stressed that:

One of the main issues with payday loans is that borrowers are charged excessive fees on top of the original loan. The fees for the loans are astronomically high, charging people establishment fees of up to \$20 for every \$100 borrowed, plus another 4 per cent per month (up to 12 months). This can equate to equivalent annual interest rates from 112 per cent to more than 300 per cent.

Because these loans are usually used for short term necessities, the loans can push people into a debt spiral where they are taking out more payday loans to stay afloat. This is made worse when payday loan companies set up a direct debit for their repayments on 'pay day', meaning the repayments can leave consumers short and unable to pay for everyday living expenses such as rent, food and utility bills.⁵⁸

2.67 The Committee received examples of where Aboriginal and Torres Strait Islander people have taken out pay day loans to pay for living expenses after direct debits to meet other loans have depleted their income. Financially vulnerable people can find themselves trying to meet repayments and charges on multiple debts to different lenders, in addition to bank fees when direct debits cause their accounts to go into overdraft. In a short time, the total amounts owing can greatly exceed the original amount of the loans.⁵⁹

2.68 Mob Strong Debt Help submitted that such practices had caused significant financial stress for Aboriginal and Torres Strait Islander consumers, particularly those in remote communities with little experience of loans or financial contracts. This had occurred through:

- specifically targeting vulnerable consumers experiencing financial stress;
- having significantly higher upfront costs compared to regulated credit products;

⁵⁷ Financial Rights Legal Centre and Mob Strong Debt Help, *Submission 12*, p. 3.

⁵⁸ Consumer Action Koori Help and Victorian Aboriginal Legal Service, *Submission 22: Attachment 1*, p. 23.

⁵⁹ Financial Rights Legal Centre and Mob Strong Debt Help, *Submission 12*, p. 23.

- having high and uncapped fees payable on default creating a financial incentive to offer credit to consumers who are unable to meet repayments;
- funnelling consumers to a high-cost alternative; and
- requiring consumers to repay the credit amount and fees via direct debit.⁶⁰

2.69 Mob Strong Debt Help provided an example of a company operating under a business model designed to avoid credit legislation, by benefiting from an exemption in s6(1) of the National Credit Code (Schedule 1 of the *National Consumer Credit Protection Act 2009 [Cth]*). The model involves the provision of short term credit at high cost to consumers, including consumers who may be on low incomes or in financial difficulties and so may not reasonably be able to afford repayments.⁶¹ The model operates in the following way:

- the short term credit provider ... offers short term credit to consumers, for small amounts up to \$1,000;
- an associate ... offers collateral services under a separate services agreement for a 'fast track application' if the consumer wants the money immediately – with repayments amounting up to 990% of the loan amount; and
- the money must be repaid within a maximum term of 62 days and sometimes a shorter period of time, increasing the risk of default as repayments are based on the term of the credit rather than being based on capacity to repay.⁶²

2.70 Consumer Action Law Centre similarly stressed that their clients' issues with pay day loans are only one symptom of a range of multiplying financial problems caused by borrowing in the unregulated sector:

[A client] might call about a payday loan, but we find that they might also have an issue with a telecommunications provider; they might have an energy debt; they might have multiple 'buy now, pay later' products, which they're obviously in payment arrears with; and, as well, through the COVID-19 crisis, they're also in housing arrears. That's generally the same story with most of our First Nations clients that are coming through. We noted that there's a huge correlation between all consumer credit and debt issues. Generally, it's not just

⁶⁰ Financial Rights Legal Centre and Mob Strong Debt Help, *Submission 12*, p. 22

⁶¹ Financial Rights Legal Centre and Mob Strong Debt Help, *Submission 12*, p. 22.

⁶² Financial Rights Legal Centre and Mob Strong Debt Help, *Submission 12*, p. 22

one person calling up about one issue; we usually find that they have most of the issues that we've raised today as well.⁶³

Case study 2

Alira is a single Aboriginal mother of two children, who had been working at the same job for six years but had to take an extended, unpaid leave of absence due to her family's health.

She had been struggling with her own physical and mental health and was a victim of family violence. Her three year old son has been diagnosed with a disability and her teenager is not coping with the lockdowns and home-schooling.

Unable to make ends meet, Alira was very vulnerable to offers of credit, digging a deeper and deeper hole, until she had the following debts:

- two loans with a payday lender totalling \$3000
- a second payday lender, which is a subsidiary of a debt collector loan, for \$2200 which has gone to debt collectors
- a third payday lender loan for \$800 (she got this after being turned down for a NILS [no interest] loan)
- a range of other debts including an energy debt of \$4000.⁶⁴

Car financing

2.71 The committee received extensive evidence about the financial consequences of unethical practices associated with the financing of car purchases. Mrs Bettina Cooper, an Aboriginal Financial Counsellor with Mob Strong Debt Help commented on the vulnerability of many Aboriginal and Torres Strait Islander peoples to unscrupulous operators in this sector, especially those in remote areas dependent on private transport:

Regional and remote communities rely heavily on private transport, leaving people at risk of entering into high-cost car loans or poor-quality vehicles. These are loans that are coupled with junk add-on products. Accessing assistance to help resolve these problems can be difficult due to the language, the physical distance, the remoteness, the perception and obstacles of

⁶³ Ms Rudolph, Consumer Action Law Centre, *Committee Hansard*, Conference Call, 25 November 2021, p. 5.

⁶⁴ Financial Rights Legal Centre and Mob Strong Debt Help, *Submission 12*, p. 26.

corporate and government authority and the general distrust, sometimes, of a non-Aboriginal organisation.⁶⁵

- 2.72 Evidence to the committee indicated that the problem lies in the nexus between unscrupulous vehicle dealers selling high-priced but poor quality vehicles ('lemon cars'), and finance companies that too readily provide unaffordable finance:

Dealerships prey on First Nations consumers – upselling them to inappropriate and expensive vehicles and adding junk warranties and insurance products to already unsuitable loans. Finance companies... are more than happy to extend unaffordable loans to First Nations customers. These are usually secured by a vehicle, which would never cover the cost of the loan if it was returned to the dealership, and is more than likely to face mechanical problems in the first year.⁶⁶

- 2.73 In a similar vein, a submission from Bush Mob Money stated that large finance corporations:

...exacerbate the problem of car yards dressing up junk as good cars, by providing expensive finance with add-on 'junk' insurance options.

I have fought ...[for] the past four years via the Australian Financial Complaints Authority (AFCA) [against the companies'] treatment of remote Aboriginal car finance customers. These large corporations have no concept that their remote customers have different needs, constraints, budget expenses, and life pressures compared to comfortable families in the city.⁶⁷

- 2.74 As well as unscrupulous practitioners preying on the financial illiteracy of some Aboriginal and Torres Strait Islander peoples, there is also evidence that buyers' trust is being exploited. ICAN informed the committee that:

...a lot of Indigenous people are quite trusting. If somebody approaches them and is going through a sales pitch or whatnot, they believe, if that person's in a suit or they're dressed up nice that their goal is to help them. Unfortunately, once they come to our service and find out that the place that put them into this contract has pretty much had finances at the top of their mind – that they weren't there to actually help them – is one of the most damaging things. When somebody goes and approaches a business and is trusting and thinks that the salesperson is there to help them, and then they find out through our

⁶⁵ Mrs Cooper, Mob Strong Debt Help, *Committee Hansard*, Conference Call, 18 November 2021, p. 15.

⁶⁶ Financial Rights Legal Centre and Mob Strong Debt Help, *Submission 12*, p. 28.

⁶⁷ Bush Money Mob, *Submission 1*, p. 2.

service or through their own self-advocacy that, essentially, they've been ripped off and taken advantage of, that just makes the pain so much worse. The emotional turmoil from that can prevent people from ever going through a similar process again. It really destroys relations between the corporate sector and Indigenous peoples.⁶⁸

2.75 ICAN further informed the committee that social media platforms are sometimes used to manipulate prospective Aboriginal and Torres Strait Islander buyers into taking out expensive finance for vehicle purchases:

Cars are listed on [Facebook Marketplace], and although it might appear that it's a private sale, it's usually a company that is selling it. When you click on the link or go to the site to look further at the purchase, you're redirected to a brokerage page... We have seen this happen time and time again with ... exploitative practices where people are being charged very high interest rates for cars that simply aren't worth the money. ...[and brokers] will add on significant fees for commission and brokerage as well as the cost of the loan itself.⁶⁹

2.76 Mob Strong Help Debt submitted that exploitative practices have been allowed to fester because of inadequate regulation:

Consumers making large purchases, such as motor vehicles, whitegoods, or furniture, may borrow money in order to pay for their product. Often the application for credit is made at the point of sale, not at the lender's premises. However, the salesperson with whom the consumer deals at the point of sale ... is not subject to the *National Consumer Credit Protection Act 2009 (Cth)*. Because of this exemption:

- retailers (in particular, white goods and furniture retailers) and car dealers recommend and facilitate credit applications or consumer leases that are unsuitable and unaffordable for their customers, because they are not required to assess:
 - whether the credit contract or consumer lease meets the consumer's financial requirements or objectives
 - whether the consumer can afford the credit contract or consumer lease without substantial hardship.
- ASIC is unable to exclude these vendor introducers from the credit market because they are not licensed by ASIC (even if they engage in conduct that is incompetent or dishonest)

⁶⁸ Mr Price-Busch, ICAN, *Committee Hansard*, Conference Call, 18 November 2021, p. 11.

⁶⁹ Mr Price-Busch, ICAN, *Committee Hansard*, Conference Call, 18 November 2021, p. 8.

- Australian consumers are limited in their ability to access remedies for irresponsible lending or the conduct of vendor introducers, including lodging their disputes with a recognised external dispute resolution scheme.⁷⁰

Case study 3

Monaro is an Aboriginal client in his late 60s, and a war veteran. Back in 2015, he took out a car loan for \$14,000 because living in regional Australia, he needed a car to get to and from work. The lender promoted itself as offering loans to people with “Bad Credit” The loan was wholly unsuitable and unaffordable from the start, including really high interest of almost 30%, and Monaro fell into arrears immediately. Eighteen months later, his marriage having just fallen apart, he suffered a stroke, became unemployed and he voluntarily surrendered the car. The loan balance had never, up to that point, ever reduced below the initial borrowed amount despite the car sale proceeds.

The lender was informed by both Monaro’s daughter and by Monaro himself that he was unemployed, had suffered a stroke and was struggling on all fronts (not just financially). The loan was then assigned from the car lender to the company’s debt assignment subsidiary. Post-assignment, the debt collector maintained the loan at the same contractual interest rate at which it had been taken out. Monaro did eventually gain employment, driving long haul trucks on a casual basis for close to the minimum wage. He did this out of a sense of moral obligation to pay what he could. Despite the debt collector knowing about his hardship and vulnerability it was not until May 2020, that the lender finally reduced the loan interest to 0%. By December 2020, as Monaro continued to make payments, the loan balance finally reduced beneath the initial loan balance—the first time in more than five years since the loan was taken out.

Monaro continued to pay until early 2021, when he collapsed on the road and was forced by doctors to give up all driving and all work. When Monaro contacted Financial Rights in early 2021 the outstanding debt was precisely \$35 lower than when he took out the loan in 2015.⁷¹

⁷⁰ Financial Rights Legal Centre and Mob Strong Debt Help, *Submission 12*, p. 31.

⁷¹ Financial Rights Legal Centre and Mob Strong Debt Help, *Submission 12*, p. 30.

Funeral Insurance

- 2.77 The funeral insurance industry was discussed in the course of this inquiry due to the poor treatment of Aboriginal and Torres Strait Islander customers by some operators via high pressure sales tactics, cold calling, and completing sales despite an inability to afford the policy.⁷² The NSW ALC noted issues around lack of transparency surrounding costs which can result in families being overcharged or presented previously unknown costs for funeral services.⁷³
- 2.78 The Financial Rights Legal Centre and Mob Strong Debt Help indicated that they have dealt with funeral insurance issues for years having run countless cases through the Financial Ombudsman Service and the Australian Financial Complaints Authority. In 2021 the Financial Rights Legal Centre provided over 120 services to 75 clients in relation to funeral insurance, 63 per cent of the clients were Aboriginal and Torres Strait Islander peoples.⁷⁴
- 2.79 As example of this poor conduct in the funeral insurance industry, the two case studies below were shared by the Financial Rights Legal Centre and Mob Strong Debt Help.

Case study 4

Lynnie is a 64 year old Aboriginal woman living in a remote community. She was referred to us by a Financial Counsellor in Western Australia, who had already obtained documents from a major insurer selling funeral insurance. Lynnie's funeral insurance premiums became too expensive, so she closed her bank account. When Lynnie came to us she was not sure whether she had funeral insurance with one company, a second company or with both.

We requested further documents from both of the insurers and call recordings, which revealed that Lynnie already had a policy with one major insurer when she was cold-called by the second large insurance company. She told the second company she already had a policy but they told her she would be better off if she switched to them, though they had no basis for that comparison. Lynnie was subject to pressure selling, the

⁷² Financial Rights Legal Centre and Mob Strong Debt Help, *Submission 12*, p. 19.

⁷³ NSW ALC, *Submission 9*, p. 1.

⁷⁴ Financial Rights Legal Centre and Mob Strong Debt Help, *Submission 12*, p. 18.

insurer also failed to explain stepped premiums and failed to explain the details of the cover provided.⁷⁵

Case study 5

Melody, a young Aboriginal woman in a remote community in WA, was sold a funeral insurance policy in 2015. It was a cold call, involved the sales rep (a self-described “local specialist”) dropping the names of other family members and friends [who are] with the insurer. Melody told the sales representative she already had funeral insurance and could not afford another policy. She was then pressured into agreeing to give the sales representative her ID and bank account details, on the basis he would use them to set up a policy for her partner, which would be changed over once they got in contact with him.

A policy was set up in Melody’s name insuring her, her children and her partner and proceeded to charge her over \$6,000 in premiums over the ensuing years.⁷⁶

Utilities sector

- 2.80 The utilities sector broadly covers energy, water and waste removal services. A number of submitters to the inquiry remarked that Aboriginal and Torres Strait Islander peoples ‘are experiencing high and unaffordable energy bills’, and that poor corporate behaviour is resulting in fear of disconnection from this essential service.⁷⁷
- 2.81 As an example, the Consumer Action Law Centre and Victorian Aboriginal Legal Services highlighted the Energy and Water Ombudsman Victoria’s report, *Missing the Mark*, which stated that 10 per cent of Aboriginal and Torres Strait Islander customers in the State faced imminent disconnection, compared to 3.5 per cent of non-Indigenous customers in 2019–20.⁷⁸

⁷⁵ Financial Rights Legal Centre and Mob Strong Debt Help, *Submission 12*, p. 19.

⁷⁶ Financial Rights Legal Centre and Mob Strong Debt Help, *Submission 12*, p. 19.

⁷⁷ Financial Counselling Australia, South East Community Links, HKTC and MoneyMob Talkabout, *Submission 23*, p. 17; Mrs Cooper, Mob Strong Debt Help, *Committee Hansard*, Conference Call, 18 November 2021, p. 15; Financial Rights Legal Centre and Mob Strong Debt Help, *Submission 12*, p. 16.

⁷⁸ Consumer Action Law Centre and Victorian Aboriginal Legal Services, *Submission 22: Attachment 1*, p. 34; Energy and Water Ombudsman Victoria 2020, *Missing the Mark*,

2.82 Financial Counselling Australia, South East Community Links, HK Training and Consulting (HKTC) and MoneyMob Talkabout advised that while issues are generally resolved with the assistance of financial counsellors and advocates, this should be unnecessary. Instead, these agencies recommend the energy sector develop a code or best practice guide for dealing with customer hardship, payment plans and debt collection.⁷⁹

Public sector agencies

2.83 Evidence to the inquiry has indicated that government agencies also need to improve their management of Aboriginal and Torres Strait Islander specific services. An example of this is the Australian Tax Office's (ATO) Indigenous Helpline, which financial counsellors have reported is quite challenging for Aboriginal and Torres Strait Islander peoples to use.⁸⁰

2.84 The ATO website advises that staff on the helpline specialise in helping Aboriginal and Torres Strait Islander peoples.⁸¹ Financial Counselling Australia and its partners stated in their submission that if their financial counsellors can ring the helpline together with their clients, this is helpful in overcoming barriers that many Aboriginal and Torres Strait Islander peoples face, including identification.⁸²

2.85 However, Financial Counselling Australia, South East Community Links, HKTC and MoneyMob Talkabout recommend that:

The ATO needs to have quality control processes in place to ensure that their First Nations helpline follows its own procedures and that when issues occur, they are investigated and fixed. Government departments should also be held to account for commitments made during consultations, to avoid raising

<https://www.ewov.com.au/uploads/main/Reports/missing_the_mark_-report_ewov.pdf>, viewed 14 February 2022, p. 14.

⁷⁹ Financial Counselling Australia, South East Community Links, HKTC and MoneyMob Talkabout, *Submission 23*, pp. 16, 18.

⁸⁰ Financial Counselling Australia, South East Community Links, HKTC, and MoneyMob Talkabout, *Submission 23*, pp. 4–6.

⁸¹ Australian Tax Office 2021, *Indigenous helpline and free Tax Help*, <<https://www.ato.gov.au/General/Aboriginal-and-Torres-Strait-Islander-people/Indigenous-helpline-and-free-Tax-Help/>>, viewed 14 February 2022.

⁸² Financial Counselling Australia, South East Community Links, HKTC, and MoneyMob Talkabout, *Submission 23*, pp. 4–6.

expectations of consumer representatives and wasting taxpayer money on initiatives that are not followed through.⁸³

The Dan Murphy's consultation failure

- 2.86 The plan by Woolworths and its former subsidiary Endeavour Group to build a Dan Murphy's liquor store in Darwin was a major example of corporate failure to properly engage with Aboriginal and Torres Strait Islander peoples. Woolworths Group and Endeavour had pursued the project for years with multiple rejected applications before finally gaining approval in December 2020 from the Northern Territory Government.
- 2.87 Throughout the process, there was strong opposition from the Aboriginal and Torres Strait Islander community and community groups such as Danila Dilba and AMSANT, who had serious concerns.⁸⁴ Principal among these issues were the risk to public health and the social harms associated with alcohol.
- 2.88 During the development of their first three rejected applications Woolworths Group and Endeavour had not properly engaged with Darwin's Aboriginal and Torres Strait Islander community. The Northern Territory Independent Liquor Commission commented in rejecting the application for the third time in 2019 on the 'disregard shown for Aboriginal and Torres Strait Islander communities.'⁸⁵
- 2.89 The Northern Territory Government finally approved the licence in December 2020, but Woolworths commissioned an independent review to evaluate its past engagement on this development and make recommendations.⁸⁶ This Independent Panel Review, undertaken by Danny Gilbert AM, was released in 2021 and found that Aboriginal and Torres Strait Islander peoples had not been properly engaged and recommended that the Dan Murphy's liquor store not be built. This led to the joint decision by Woolworths Group and Endeavour to abandon the project.⁸⁷

⁸³ Financial Counselling Australia, South East Community Links, HK TC, and MoneyMob Talkabout, *Submission 23*, pp. 4–6.

⁸⁴ Mr Paterson, AMSANT, *Committee Hansard*, Conference Call, 17 February 2022, p. 1.

⁸⁵ Foundation for Alcohol Research and Education, AMSANT, Danila Dilba Health Service, Northern Territory Council of Social Service, *Submission 20*, p. 6.

⁸⁶ Endeavour Group, *Submission 3*, p. 5.

⁸⁷ Endeavour Group, *Submission 3*, p. 5.

Vulnerabilities among some Aboriginal and Torres Strait Islander consumers

2.90 It was evident to the committee throughout the inquiry that there are clear vulnerabilities among some Aboriginal and Torres Strait Islander peoples that are often not taken into account by businesses and corporations. The committee is mindful however that there should be no stereotyping in this regard, as stressed by Mob Strong Debt Help:

While it is clearly the case that not all Aboriginal and Torres Strait Islander people are vulnerable, it is equally true that not all vulnerable Aboriginal and Torres Strait Islander people are remote.⁸⁸

2.91 Evidence to the inquiry indicated that corporate organisations continue to fail to understand ‘the underlying cultural, historical, intergenerational trauma and socioeconomic issues’ faced by Aboriginal and Torres Strait Islander peoples and communities across Australia.⁸⁹ Vulnerabilities and barriers for consumers include:

- cultural misunderstandings;
- English being a second or third language;
- poor literacy, including poor financial literacy;
- not having or difficulty obtaining mainstream identification documents; and
- regionality and/or remoteness.⁹⁰

2.92 Mob Strong Debt Help emphasised that culture is not a vulnerability in and of itself—rather it is the opposite—but that cross-cultural difference can mean that Aboriginal and Torres Strait Islander consumers ‘may find it particularly difficult to navigate some corporate products, services and

⁸⁸ Financial Rights Legal Centre and Mob Strong Debt Help, *Submission 12*, p. 7.

⁸⁹ Mrs Cooper, Mob Strong Debt Help, *Committee Hansard*, Conference Call, 18 November 2021, p. 14; Financial Rights Legal Centre and Mob Strong Debt Help, *Submission 12*, p. 3.

⁹⁰ Ms Naden, ICAN, *Committee Hansard*, Conference Call, 18 November 2021, p. 10; Ms Edwards, Financial Counselling Australia, *Committee Hansard*, Conference Call, 18 November 2021, p. 19; Dr Loban, ACCAN, *Committee Hansard*, Conference Call, 15 December 2021, pp. 10, 12; Ms Jaymee West, Analyst, Indigenous Outreach Program, Australian Securities and Investments Commission, *Committee Hansard*, Conference Call, 15 December 2021, p. 29; Financial Rights Legal Centre and Mob Strong Debt Help, *Submission 12*, pp. 14–15, 29–30; ACCAN, *Submission 13: Attachment 1*, p. 9; NAAJA, *Submission 19*, pp. 5–7.

processes.’ Cultural differences include differing communication styles, which can result in consumers’ needs being misunderstood.⁹¹

2.93 Mob Strong Debt Help further advised the committee that often community values are at odds with corporate Australia, stating that:

The failure to take into account generational trauma and cultural differences when engaging with Aboriginal people has led to miscommunications, shame and vulnerabilities being taken advantage of.’⁹²

⁹¹ Financial Rights Legal Centre and Mob Strong Debt Help, *Submission 12*, pp. 7–8.

⁹² Mrs Cooper, Mob Strong Debt Help, *Committee Hansard*, Conference Call, 18 November 2021, p. 14.

3. Committee comment

Cultural awareness through the RAP program

- 3.1 The committee was pleased to learn that the Reconciliation Action Plan (RAP) program is generally well received by most of the stakeholders who contributed to the inquiry. The committee considers this program to be a very useful framework for entities in the public and private sector to further develop cultural understanding and better engagement practices.
- 3.2 The evidence presented to the inquiry indicates that RAPs play a positive role and the expansion of the program's reach is to be welcomed, they will only foster better engagement with Aboriginal and Torres Strait Islander consumers if they are implemented at all levels of an organisation.
- 3.3 The examples of the destruction of the sacred sites at Juukan Gorge by Rio Tinto, and the \$50 million penalty imposed on Telstra for aggressive and inappropriate sales practices towards Aboriginal and Torres Strait Islander customers, and Woolworths failure to adequately consult communities on its plans to open a Dan Murphy's in Darwin show that even organisations with well-developed RAPs can do things that are wholly contrary to the principles of reconciliation. A RAP document is therefore not enough in itself. A RAP has to become, and remain, an integral part of the practices of the business at all levels.
- 3.4 The committee is therefore very mindful of the criticisms made by some of the contributors to the inquiry—that RAPs can be 'box-ticking' exercises—and would like this to be explored in further depth. This will help to ensure that RAPs will continue to evolve for participating organisations and the communities they serve.

Critical market sectors for engagement

Financial services

- 3.5 It is troubling to the committee that many Aboriginal and Torres Strait Islander consumers have very poor experiences with banking and other financial services. The evidence presented so far indicates that there is continued behaviour by business which takes unfair advantage of the poor financial literacy of Aboriginal and Torres Strait Islander consumers in this sector.
- 3.6 The work of financial counsellors is vital to ensure that individuals especially in remote communities can be supported and assisted to stop financial and emotional trauma. It is clear there are too few counsellors and the service should be better resourced.

Payday lending and predatory car loans

- 3.7 Within the finance sector, the operation of payday lenders and certain car loan finance operations were deeply concerning to the committee. These predatory practices are operating outside of the reach of government regulators and are quite literally destroying lives.
- 3.8 These issues are not limited to Aboriginal and Torres Strait Islander peoples need to be addressed as soon as possible by the next Parliament.

Telecommunications and digital services

- 3.9 The Committee heard evidence that despite Telstra's significant fine for unconscionable sales practices toward Aboriginal customers in the Northern Territory, similar practices continue to occur in other jurisdictions. Evidence presented also indicated that many Aboriginal and Torres Strait Islander people around the country experience financial difficulties as a result of telecommunications debt. The upselling of products that were not needed was cited as one component of this.
- 3.10 The behaviour of corporate bodies in opposition to community expectations must be addressed.
- 3.11 These issues will need further exploration in the next Parliament.

Other sectors

- 3.12 A number of other sectors were highlighted in the evidence to the inquiry, including helplines provided by government agencies, predatory practices involving funeral insurance, and financial hardship caused by the high cost of utilities, particularly energy costs.
- 3.13 These areas also warrant further scrutiny as they all have a significant impact on the well-being of Aboriginal and Torres Strait Islander peoples.

Continuation of the inquiry

- 3.14 As indicated in chapter 1 of this report, there was insufficient time before the end of the current Parliament for the committee to fully explore policy options for government through this inquiry.
- 3.15 The committee believes therefore that this inquiry should be re-referred by the Minister at the beginning of the next Parliament. The newly formed committee will then have ample time to explore the issues discussed herein in greater depth and ultimately make appropriate policy recommendations to government.
- 3.16 The current committee members hope that this issues paper will serve as a useful starting point for the new committee to continue this important inquiry.

Julian Leeser MP

Chair

17 March 2022

A. Submissions

- 1 Bush Money Mob
- 2 Carers NSW
- 3 Endeavour Group
- 4 Telstra
- 5 HESTA
 - Attachment 1
 - Attachment 2
- 6 Responsible Investment Association Australia
- 7 Swinburne University
- 8 Australian Competition & Consumer Commission
 - 8.1 Supplementary to submission 8
- 9 NSW Aboriginal Land Council
- 10 First Nations Media
- 11 Australian Institute of Superannuation Trustees
- 12 Mob Strong Debt Help
- 13 Australian Communications Consumer Action Network
 - Attachment 1
 - 13.1 Supplementary to submission 13
- 14 Commonwealth Bank
- 15 Australian Council of Superannuation Investors
- 16 Westpac Banking Corporation

- 17 Australian Securities and Investment Commission
 - 17.1 Supplementary to submission 17
- 18 Reconciliation Australia
 - 18.1 Supplementary to submission 18
- 19 North Australian Aboriginal Justice Agency
 - 19.1 Supplementary to submission 19
- 20 Foundation for Alcohol Research and Education, Aboriginal Medical Services Alliance Northern Territory, Danila Dilba Health Service, and Northern Territory Council of Social Service
- 21 ANZ
- 22 Consumer Action Law Centre and Victorian Aboriginal Legal Service
- 23 Financial Counselling Australia, South East Community Links, HK Training and Consulting, and MoneyMob Talkabout
- 24 National Indigenous Australians Agency
- 25 Australian Banking Association

B. Public hearings

Thursday, 18 November 2021

Parliament House, Canberra via video conference

Financial Counselling Australia

- Ms Lynda Edwards, Coordinator Financial Capability

Mob Strong Debt Help – Financial Rights Legal Centre

- Ms Bettina Cooper, Aboriginal Financial Counsellor

Indigenous Consumer Assistance Network

- Ms Majella Anderson, Indigenous Financial Capability Trainer
- Ms Unaisi Bull, Financial Counsellor
- Ms Daphne Naden, Board Member
- Mr Alex Price-Busch, Board Member
- Ms Jillian Williams, Operations Manager

National Indigenous Australians Agency

- Mrs Letitia Hope, Deputy Chief Executive Officer, Policy and Programs
- Ms Andrea Kelly, Acting Group Manager, Social Policy and Programs
- Ms Julianne Merriman, Branch Manager, Business and Economic Policy

Thursday, 25 November 2021

Parliament House, Canberra, via teleconference

Consumer Action Law Centre

- Ms Samantha Rudolph, Policy Officer
- Ms Katherine Temple, Director, Policy and Campaigns

Thursday, 2 December 2021

Parliament House, Canberra via video conference

Reconciliation Australia

- Mr Andrew Meehan, General Manager, Research and Government Affairs
- Mr Peter Morris, General Manager, Reconciliation Action Plan Program
- Ms Karen Mundine, Chief Executive officer

Wednesday, 15 December 2021

Parliament House, Canberra via video and teleconference

Australian Communications Consumer Action Network

- Ms Una Lawrence, Director, Policy
- Dr Heron Loban, Chairperson, Indigenous Steering Committee

Australian Competition & Consumer Commission

- Mr Michael Dowers, Director, Darwin and Townsville
- Mr Richard Fleming, General Manager, Consumer and Compliance Strategies Branch

Australian Securities and Investment Commission

- Ms Danille Abbott, Senior Lawyer, Indigenous Outreach Program
- Ms Leigh Coughlan, Senior Manager, Indigenous Outreach Program
- Mr Sean Hughes, Commissioner
- Ms Jaymee West, Analyst, Indigenous Outreach Program

Reconciliation Australia

- Mr Andrew Meehan, General Manager, Research and Government Affairs
- Mr Peter Morris, General Manager, Reconciliation Action Plan Program
- Ms Karen Mundine, Chief Executive officer

Thursday, 10 February 2022

Parliament House, Canberra via teleconference

North Australian Aboriginal Justice Agency

- Mrs Sarah Black, Lead Solicitor, Debt and Consumer Law
- Mr John Rawnsley, Manager, Law and Justice Section

Thursday, 17 February 2022

Parliament House, Canberra via teleconference

Aboriginal Medical Services Alliance

- Mr John Paterson, Chief Executive Officer

Danila Dilba Health Service

- Ms Joy McLaughlan, Senior Public Health Officer

Foundation for Alcohol Research and Education

- Ms Caterina Giorgi, Chief Executive Officer

Northern Territory Council of Social Service

- Ms Deborah Di Natalie, Chief Executive Officer