



E-NEWS

February 2008

Edition 31

Indigenous Consumer Assistance Network LTD

ICAN Update

You just have to [GOOGLE](#) 'Indigenous Consumer Assistance Network' to see how active the small team at ICAN has been in the past couple of years. ICAN's three tier approach of consumer advocacy, education and assistance has proven to be a winning formula. The success continued last month with great news from the Australian Securities & Investments Commission (ASIC) and the Australian Tax Office (ATO).

ICAN was endorsed by the ATO as a deductible gift recipient (DGR) on the grounds that our company is a public benevolent institution (PBI). The benefit to ICAN is that we can now provide salary packaging to employees, receive tax deductible donations and apply for philanthropic funding. ICAN would like to thank Reconciliation Australia for securing the Pro Bono legal services of Blake Dawson who made this all possible.

ASIC released a media statement last month acknowledging the recent payment of \$98,000 by United Financial Services (Qld) Pty Ltd (UFSQ) to ICAN. UFSQ made the payment as part of a package of solutions to resolve concerns raised by ASIC in relation to its finance broking business. ICAN plans to use the funds paid by UFSQ to enhance its existing outreach services for consumers in Far North Queensland and the Torres Strait Islands.

ICAN CEO, Aaron Davis said, "ICAN has provided a necessary link between ASIC and remote Indigenous Australia, culminating in a number of joint investigations. ICAN welcomes ASIC's recognition of this through the United Financial Services remediation process. The funds give ICAN the ability to investigate systemic consumer issues in the remote Indigenous communities in which they occur."



landline would be charged at the cost of a local call customers would pay no more than a capped monthly fee

- the mobile phones could be used to send pictures and access the internet without additional charges
- a customer would be able to terminate the plan at any time at no additional charge, and network coverage was available Australia-wide.

The court found that none of these statements were true. Whilst many of the affected consumers were indigenous, non-indigenous consumers across Australia were also targeted. The court also declared the directors, Mr Manan Chopra and Mr Vishal Gupta aided, abetted, counselled or procured the contraventions of the Act by VIPtel.

The company has been ordered:

- not to engage in the conduct again
- to arrange for the broadcast of a community service announcement in Indigenous communities to educate consumers about telemarketing calls
- to implement a Trade Practices compliance

VIPTTEL MOBILE PHONE TELEMARKETERS MISLED CONSUMERS

The Federal Court in Darwin today declared that VIPtel Mobile engaged in multiple breaches of the *Trade Practices Act 1974* during telemarketing calls across Australia.

Many customers were contracted to 24 month commitments while living in places without network coverage.

The Australian Competition and

Consumer Commission took action following complaints from remote indigenous communities in the Northern Territory. More than 150 customers with no network coverage will receive refunds and will be able to cancel contracts with no penalty as a result of the ACCC action.

Other claims by VIPtel included:

- calls to any mobile or

Funded by
Office of Indigenous Policy Coordination
Department of Family, Housing,
Community Services and
Indigenous Affairs



DISCLAIMER

"The information set out in this newsletter is a summary of some issues you should consider as consumers. It is not comprehensive and it is not legal advice. You should contact a community legal centre or a solicitor for legal advice about your situation. You can also obtain further information from the offices referred to in this publication"

program, and

- to pay costs of \$50,000 to the ACCC.

The company also provided court enforceable undertakings to the ACCC regarding refunds to consumers. In making the orders Justice Reeves said: "the most egregious aspect of EDirect's conduct was in its selling its mobile phones and service plans to people living in remote areas of Australia, including remote Aboriginal communities, when the slightest enquiry on its behalf would have disclosed that those mobile phones could not connect to the Optus GSM network because that network did not provide coverage to those remote areas of Australia."

He further stated: "Similar observations could be made about EDirect's conduct in publishing statements and maps on the VIPtel website which clearly conveyed the impression that EDirect was able to provide mobile phone coverage to almost all of the Australian land mass. Again the slightest enquiry would have revealed to EDirect that this representation

was quite untrue."

He also said that: "The likelihood of detection of these sorts of breaches is slight, particularly in remote areas of Australia, and for that reason the full force of the law should be brought to bear in circumstances where, as is in this case, the authorities have managed to detect such breaches."

He said that: "I enquired of the parties whether there was any regulatory regime in place that required telemarketing calls of the kind involved in this case to be recorded, especially where they involve oral contracts. It seems to me that future detection would be increased if there were in place some regulatory regime."

ACCC Chairman, Mr Graeme Samuel, said it was appalling that consumers were committed over the telephone to direct debit contracts that would ultimately cost them from \$900 to \$2,300 where there was no mobile service available to them. "It seems the telemarketers had a flagrant disregard for the truth in their pursuit of customers. The telemarketing

calls, which originated in India, were often received by Indigenous consumers for whom English was a second language. This factor combined with the agreeable nature of many Indigenous consumers made them an easy target. "The misleading conduct was exacerbated when some customers rang to complain and were given no assistance. One customer in a remote indigenous community was told that he should try standing on his roof to obtain a signal in circumstances where the nearest reception was 230 kilometres away.

"Consumers are encouraged to sign up to the *Do Not Call** register if they do not wish to receive telemarketing calls. Alternatively, if you don't like what is being said in a telemarketing call, just hang up." The ACCC acknowledges the assistance of NT Consumer Affairs, and the Money Business office on Elcho Island in this matter.

Media Release courtesy of the ACCC, 12 Feb 2008.

Important Message from ICAN



ICAN believes that there are a number of Indigenous people in Cape York, Gulf of Carpentaria and the Torres Strait **(no coverage areas)** that have been sold VIP Tel mobile phone contracts by telemarketers. If you know someone who has been sold a mobile phone contract from VIP Tel, get them to call ICAN on [1300 369 878](tel:1300369878). To stop unwanted telemarketing calls, ICAN suggests that people list their phone number with the Do Not Call register by calling [1300 792 958](tel:1300792958) or going to the website at www.donotcall.gov.au.

Photo: Colin Costello Jnr. of Yarrabah