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Day 1, Wednesday 14th September

4:00-5:00pm: Resolutions and Recourse – Practical Options to get Resolutions

JULIE McCROSSIN: Thank you very much. If you'd like to take a seat on the chat panel, Judi, we're now going to segue into the Resolutions and Recourse – Practical Options to get Resolutions segment. This is our second-to-last segment for the day, in which a number of people who are involved in handling complaints or associated activities are going to brief you on the role of their organisation and the type of complaints that they deal with, and then they'll take a place on the panel and will look at patterns of complaints, powers to investigate patterns, how they communicate, and so on, and give you plenty of opportunities for questions. So if it's OK with people, I'll bring you up one at a time and ask you just to make some brief opening remarks from the lectern, focusing just on the basic role of your organisation and the types of complaints that you handle. Richard Bean, if he could come first – the acting chair of the Australian Communications and Media Authority, a regulator. Please make him welcome.

(APPLAUSE)

RICHARD BEAN: Thanks, Julie. Thanks, ACCAN, for giving me the opportunity to be here this afternoon. The ACMA, as most of you know, is Australia's sectoral regulator for telecommunications, radio communications, broadcasting and the internet. Unlike some other organisations on the panel this afternoon, our focus is not on mediating the complaints of or obtaining redress for individual consumers. Our focus is on promoting industry-wide compliance with all of the consumer-facing rules that there are, and an environment in which consumer cause for complaint is minimised. We have a higher-level role. We do that in a few ways. We work to get the regulatory settings right in the first place. For example, we only register codes which contain appropriate community safeguards, and that includes, for example, the rules in the TCP code about complaint-handling processes. We ensure that telecommunications companies are members of Judi's ombudsman scheme, and that they abide by the decisions of the ombudsman to help ensure that the industry's own scheme works effectively. And we look at identifying and addressing systemic or recurring problems through outreach investigation, outreach and enforcement. That's not to say we don't receive and engage in individual consumer complaints – we do do that too. We use those complaints to identify hot spots – specific businesses that may be in breach of the rules, rules which aren't perhaps well understood. Industries with high rates of non-compliance... But not all complaints – in fact, only a small number of complaints – result in formal investigations and enforcement action. Often, the consumer's preferred outcome isn't within our gift. Much of our regulatory work is focused on the future, on forward-looking compliance. So, for example, when a telco contravenes a registered code, such as the TCP code, we can give them formal warnings, we can direct them to comply with the code, we can't punish them specifically or direct them to pay compensation, for example. But where a complainant raises an issue under the TCP code, we will provide them with advice about how the code works, the escalation of complaints, the processes and so on. We receive relatively few complaints of that kind in telecommunications – maybe a few hundred a year. In other areas, we receive far more. Last financial year, 23,000 complaints related to the Do Not Call Register. 1,700 about email and SMS spam, for example. We also received more than 500,000 reports of spam, which are mostly filed using automated click-and-refer/report mechanism. So we do respond to each individual Do Not Call complaint, either directly or through the contractor that we use to operate the register. We provide advice and assistance, and we can help identify the businesses concerned. Typically, in those circumstances, complainants just want the calls to stop. So that's where our focus

is. Relatively few businesses are taken to court. Many thousands receive informal compliance warning letters – around 400 or 500 a month. Now, that sounds reasonably toothless but, in fact, it's extremely effective, and the vast majority of businesses who get one of those letters are never complained about again. Some years ago, we did quite a bit of research into what consumers' expectations of their telco providers were. The answers, I think, are relevant still today, and they're not surprising. They are – timely resolution, follow through on promised actions, and staff knowledge and helpfulness. So I might leave it there, Julia.

JULIE McCROSSIN: Thank you. What's TCP?

RICHARD BEAN: Telecommunications Consumer Protection Code. I beg your pardon.

JULIE McCROSSIN: Thank you so much. Please give Richard a warm round of applause.

(APPLAUSE)

This is a fascinating process. I'm learning a lot. I hope others in the room are as well! It's my pleasure now to welcome Rod Stowe, the Fair Trading Commissioner, NSW Fair Trading. Please make him welcome.

(APPLAUSE)

ROD STOWE: Thanks, Julie. NSW Fair Trading is a multimarket sector regulator, and we administer the Australian consumer law, along with other states and territories and our Commonwealth colleagues. The ACL, as most of you would know, is that generic overarching consumer protection legislation that sets business rules for most marketplace transactions, and it also provides a number of protections for consumers, includes provisions around consumer guarantees, prohibitions on unconscionable conduct, false or misleading representations, unfair contract terms, et cetera. NSW Fair Trading also regulates a number of specific industry sectors in our state. So we're responsible, for example, for the residential building sector and the retail motor sales and repair sectors. One of NSW Fair Trading's key roles is to deal with consumer complaints about traders who supply goods and services, and we receive something like 50,000 complaints every year. Our dispute resolution service is based on mediation between the parties, and we don't have a power to compel a business to a particular outcome. But having said that, we still have a very high dispute resolution rate. So between 85% and 90% of matters we were able to resolve for consumers. Once a complaint's lodged, our customer service officers usually contact both parties by phone, and they seek to negotiate a mutually acceptable outcome. Where resolution is not achieved, we will advise the consumer of other options that they can pursue, including things like going to – here in NSW, the NSW civil administrative tribunal, which can make enforceable orders. If a complaint falls within the scope of an industry ombudsman scheme, then we refer that complaint to that service on receipt. Should a consumer service officer detect a possible breach of legislation when they're dealing with a consumer complaint, they will refer that matter for assessment, and that assessment process will determine whether that matter should be referred for investigation, and it draws on factors like our agency's compliance and enforcement policy, which looks at things like the degree of consumer detriment, concern with the matter, the trader's track record, and those sort of things. Should an investigation prove evidence of non-compliance, then we have a range of enforcement options that range from trader education, warning letters, through to corrective advertising, enforceable undertakings, and then through to civil and criminal prosecution. I thought you might be interested in some data in terms of complaints. Since January 1, 2013, Fair Trading has received 3,028 complaints, and 6,021 inquiries about communication services, the area of interest today. The majority of those complaints related to cable subscription and broadcasting – about 23%, computer software and system design services – about 20%. Data processing, web hosting, electronic information storage services – about 15%. Most of the complaints raised were about things such as unsatisfactory quality of service, refunds, non-partial supply of service, or service altogether, cancellations, and cooling-off periods. The numbers of both inquiries and complaints have declined since 2013 – in particular, complaints have decreased from 996 in 2013 down to 657 in 2015. To date, for 2016, we've received 612 complaints in that particular category. Julie, I might leave it there.

JULIE McCROSSIN: Thank you so much. A round of applause, please.

(APPLAUSE)

Our next person is Vanessa Stanford, who's the general manager of complaints with the Australian domain administration organisation. I'm not sure what noun to pop on the end! Please welcome Vanessa.

(APPLAUSE)

VANESSA STANFORD: Thank you, Julie. auDA, as we like to refer to ourselves – essentially, we're a policy or the authority for the '.au' domain space. We're not a government body. But we are endorsed by the Australian Government in 2000, and we operate under a self-regulatory model. We derive a lot of our powers from ICAN, the Internet Corporation for Assigned Names and Numbers, based in the US. They have recognised us as the '.au' operator under a sponsorship agreement. That simply means – it's actually not that simple. It's the technical management of the '.au' zone file. Please don't ask me questions about what that means – I have no idea. It's very vague. It means we do need to keep it accurate, current and continuously available. We do that via technical management, via the managing of primary and a whole bunch of secondary name servers that actually make up the domain name space. auDA is a small group. In terms of what it is we do, it's a couple of things – develop and implement policy, of course. Licence the second-level registries. We licence and accredit registrars, the organisations who actually do provide domain name registrations. We implement consumer safeguards. We facilitate the '.au' resolution policy, a step you can take before going to court. We represent the '.au' at fora. Technical management of the '.au' file, and we maintain and secure a domain name system. And of course, my baby, the complaints world. We manage them in two streams – domain name complaints, about the registration of the domain name and possibly what they may be doing with it, and what we call industry complaints, which is about the people who facilitate and provide those domain name registration services. And that's it, in a nutshell.

JULIE McCROSSIN: Thank you very much. A round of applause, please.

(APPLAUSE)

It's my pleasure now to welcome Robyn Hobbs, the NSW Small Business Commissioner. Please make her welcome.

(APPLAUSE)

ROBYN HOBBS: Hello, everyone. First off, can I say how fantastic it is to see the various forms of communication? I speak, as my colleagues do, at lots of conferences, but it's fantastic to see it coming up on the screen and the signing, so well done to you. So, I'm the NSW Small Business Commissioner. My role is to be the advocate for the 690,000-odd small businesses in NSW. 96% of the NSW economy. What I refer to as not only the backbone of the NSW economy, but indeed, the heartbeat. The main areas which we look after, we have a dispute resolution area, which I'm sure we'll get to in question time. We have an advocacy unit where we look at resolving, reducing regulations, and working with stakeholders. One of the key stakeholders that we have such a strong relationship with is my colleague, Rod Stowe, from the Department of Fair Trading. We also provide business advisory services. We have about 100 business advisors on the ground. This year alone, we've provided 48,000 hours of business advice. Our small business bus travels over NSW visiting 300-odd communities. And literally we will help anybody in terms of start-up, scale-up and innovate. Very important, too, for us to actually recognise that, one-third of NSW small businesses are the owner/operators who were born overseas. So we provide services in the primary languages of Arabic, Chinese, Korean and Vietnamese. We actually have advisors who work in those particular areas and who are from those communities. We also work in disrupted industries, and some of those – when I mention what they are, you'll say, "Ah, yes, aren't you lucky to get those?" The most interesting one at the moment – greyhounds. Some of the Greyhound Transition Task Force. The light rail project, going through Sydney, Uber and taxi, supermarket chains selling lottery tickets, the price of milk – some examples of working heavily with disrupted industries. But other industries which get terribly disrupted – of particular interest, I think, to you is when we have... This is a term I actually think is an odd name, but it's called an event. If it's a disaster, it is an event. Seems a bit slightly odd. But – bushfires, floods, which are the natural events, and the man-made events – in the 2.5 years I've been a commissioner, the bombing in Rozelle and then the Martin Place siege. In particular, in that space, the work that you do in telecommunications is critical to getting small businesses up online. So, thank you very much. I look forward to the questions and answers. Again, congratulations on your conference.

JULIE McCROSSIN: Thank you very much.

(APPLAUSE)

I've got one more person, and I realise I don't have another chair, so if someone from the team could assist me by popping another chair up on the stage... But could I now welcome Jodie Sangster, the CEO of the Association for Data-driven Marketing. Please welcome her.

(APPLAUSE)

JODIE SANGSTER: I think I was the first person to notice there wasn't a chair for me. I'm the CEO of the Association for Data-driven Marketing and Advertising. Many of you will have known us in our original form, which was the direct-marketing association. But as the world of marketing has evolved, we as an association have evolved as well. So we now represent around 700 corporations in Australia who have or who use personal information, who use your personal information, to send marketing to you.

That obviously has greatly expanded, so it started off probably with direct mail, which is where we started, moved into telephone marketing, email marketing, now mobile marketing, social media, and now obviously online advertising and moving through to all of your kind of online devices. So each time that you receive that marketing, data is used, and they are the organisations that we represent. And we set standards around the type of marketing that is sent, but also the use of data in marketing. So this is obviously quite a contentious issue, and I think all of us being consumers have a viewpoint on marketing that we receive, and whether that marketing is appropriate, whether it's misleading, whether it's telling the truth, and we also have an opinion on whether our data should be used, and how it is used for marketing purposes. So it is quite a contentious issue, and for that reason we have Code of Practice and guidelines which outlines what our members can and can't do, and each of our members will sign up, to say they subscribe to the Code of Practice. But in order for that Code of Practice to have any real teeth, and meaning, there has to be an independent complaints-handling body who can look at the complaints that we receive about our members and decide whether that complaint is valid or not. Obviously we can't do that as an association, because we would have a conflict of interest, because we represent our members. So for that reason, we set up an independent complaints-handling body called the Code Authority. So the Code Authority is independent from us. It has an independent chair who comes from the consumer side and is made up of four consumer representatives and three business representatives. The reason for that is to make sure that the complaint can be fully investigated, taking into account the industry skills and expertise, but also the consumers' viewpoint as well, so both of them sit there. The job really is to get a quick resolution. The type of complaints that we receive will cut across a lot of the regulatory bodies that exist, so many of them could go to Fair Trading, they could go to the Privacy Commissioner, they could go to the TIO, but they'll come to us because it's about our members, and we can have a very quick resolution with our members and get their complaint resolved. So a lot of it is around quick resolution. Our remedies are self-regulatory remedies. A lot of it is around us educating and making sure the complaint is quickly fixed, and then making sure that they have compliance programs in place that those complaints don't happen again. If it is systemic, the code authority can recommend to the association that a Code of Practice be put in place, and that further rules be put in place for our members that they have to abide by. Two other things worthy of mention. Our role is changing. At the moment, we are very much... The way that the code authority grew up was that it was looking at both marketing and data. So it was looking at – is the marketing that you receive honest and truthful? Did you get what you thought you were going to get? Did the marketing tell you what you were going to get and you actually got that, both in terms of the product and the service that you received? If someone has used your personal information to contact you, have they done so in a responsible manner? As the world is changing, and as data is becoming so central to so many businesses, the wave of complaints is swinging towards data. So, whether consumers are comfortable with their data being used in a certain way, whether there has been enough transparency on the part of the business about what's going to happen with that data, and particularly if they don't want to be contacted anymore, how do they stop a company contacting them anymore? There is a swing into that data world, and that seems to be the large bulk of complaints that we now receive. Thank you.

JULIE McCROSSIN: Thank you very much.

(APPLAUSE)

My panel, I've got a couple of live mikes down there, and I'm just going to ask two or three questions, then I'll open on the floor. But one of the key things – and some of you have partially addressed this – that people are interested in is trends in complaints, and your capacity to deal with systemic issues, either alone or in cooperation with others. So, which of you would like to begin by giving us some sense of trends, whether you're able to deal with them, and also how you make – the degree to which you make that transparently available to the public. Who'd like to kick off? Thank you. Do you mind grabbing the mike down there? And if you pop it close to your mouth – we've got a group that have been going since 9:00, so give them energy.

ROBYN HOBBS: One of the things for us that will get a complaint – I'm shower it's similar across the board – we want to make sure the complaint is evidence-based. I'm Robyn Hobbs, the NSW Small Business Commissioner. So we want to make sure that the complaint is sound, it actually has an evidence base. In a particular complaint which we have just handled that you might be familiar with, we began to see complaints coming in about an organisation called the Community Network. This was a business, or it is a business, that actually supplies marketing. You often see it in professional services rooms or hospitals about promoting particular businesses and products. We began to receive complaints that contracts were being rolled over, the promised advertising wasn't being delivered, and there was a lot of money moving around. Once there was a Small Business Commissioner – there's one in nearly every state, and we began to engage with them to find out if they were receiving complaints about this organisation. In fact, they were. So we actually coordinated all of that from our office here in Sydney. We handed it over to the ACCC. They then investigated and, they took the Community Network to court. They were fined, and they have provisions attached to what they need to do. They're now in breach of those, and further action is being taken. But the critical thing is – it does need to be evidence-based. You do need to be tenacious with these sorts of things. There are no quick fixes. It does take a little bit of time. But then, it does pay off. So that's a particular one that I can talk about.

JULIE McCROSSIN: Can I ask you – do you issue public reports that indicate trends and those sorts of initiatives that you've taken to give redress to the community?

ROBYN HOBBS: No, we don't, but my colleague, Rod Stowe, I know, will be very keen to talk about his complaints register, which he has launched just about a month ago, and I – we support it, and we've worked with Fair Trading on that, so I'll pass over to Rod.

JULIE McCROSSIN: Pass it down, thank you.

ROD STOWE: To pick up on the issue of trends – in fair trading, we've got a number of systems that allow things to be treated. If you get a certain number of triggers, we also have a data analytics platform that allows us to match a lot of data and come up with trends that otherwise wouldn't be discernible. We also keep an eye on things like social media. One of the things we've learned in recent years is people don't just come to Fair Trading with complaints, they go to a whole lot of areas. We need to be cognisant of that. With UN of the big developments in recent times for us has been our complaints register. So, since last month, we will now publish every month those businesses who have received 10 complaints in the preceding month will be put on a complaints sheet. It will do two things – firstly, help consumers make better-informed decisions in the marketplace, and probably more importantly, change business practice. As Robyn and I have discussed, the people who are appearing on our complaints register aren't so much businesses that are breaking the law, but businesses who have a bad track record when it comes to customer services and the like. So, putting a bright spotlight on those businesses is already having a difference. We started this process back in March when we released our guidelines, we've been engaging with the businesses that had a bad track record if the register had been published in March, there would have been 33 businesses. When we published last month, there were only 20. Many of those names that were on our original internal list weren't there when we went public in August.

JULIE McCROSSIN: Can I ask you – I'm an outsider, obviously, here, I'm an MC. But I've learned a lot listening to each of you speak, and I'm just thinking the general public must be unclear sometimes – who do you go to? Is there a lot of cross-referral between all of you?

ROD STOWE: Look, there certainly is. I think we've all got pretty good staff who triage the complaints as they come in, and they are able to very swiftly, usually, refer them on. We certainly take advantage of it. When we're

working on similar issues, as Robyn pointed out, the network of the Small Business Ombudsman are able to work together, similarly in the Consumer Affairs field, the Australian consumer law regulators work together on a regular basis to cooperate, identify issues and deal with them.

JULIE McCROSSIN: Look, thank you. Judi, do you want to speak I know you spoke earlier, but can you give us a sense of trends in your organisation, and complaints?

JUDI JONES: Sure. At the moment, the most complained about single issue – where someone is complaining both about a bill or a service provider, but also complaining about customer service... The most complained about single issue in the past year has been data speeds and internet complaints. We do monitor trends and complaints. We do have a systemic issues function. We do publish our statistics on our website. In terms of patterns – 35% of our complaints are about mobile, 35% internet, and 30% about landlines. That's the first time this year that internet has caught up with mobile complaints. So we're monitoring them all the time, but we do have data on our website too.

JULIE McCROSSIN: Thank you. Who else would like to offer some thoughts on this? Just put it really close to your mouth.

JODIE SANGSTER: I can offer some thoughts on systemic issues. We do track systemic issues – we have a register as well of the type of complaints that we're receiving. The important thing from our point of view is to be able to respond to it and to provide business with some guidance or guidelines by which they know what they have to now do. A great example of this – a couple of years ago, something that's probably we've all heard of – group by buying. This was a really big issue at the time, where people were going to Groupon and Scoopon and buying vouchers for things, and not quite getting what they thought they would when they went to redeem their voucher. It was a good example of how regulators and self-regulatory bodies can work together. Fair Trading raised the issue and said we needed to do something about it. We then stepped in and developed a Code of Practice, but also brought in all of those companies, made them subscribe to the Code of Practice, and made them accountable for their actions. And it worked really well to try and tackle some of those bigger issues, or the systemic issues. Rather than trying to pick them off one by one. I thought it was a good example of how regulators and self-regulation can work together.

JULIE McCROSSIN: Thank you. Richard, is there anything you'd like to say about trends in your work relating to complaints?

RICHARD BEAN: Well, not so much perhaps about specific ones but we are always on the lookout for trends and we work closely with Julie's organisation to look at what looks to be a systemic issue and we look at whether the codes of practice, for example, that are existing at the time that are intended to cover a particular type of behaviour are working or not, whether they should be changed and of course we work with the telecommunications peak body, Communications Alliance, on those issues. So we try and remediate the system, I suppose, rather than any particular complaint. But we do identify from time to time peaks and troughs in different kinds of things. Judi has mentioned internet speeds and another one that has recently been coming to our attention is consumer concern about third party willing, so things turning up on their phone bill for services or something that they hadn't realised they had subscribed to or bought. And the billing mechanism is that you pay through your phone bill. And this is kind of a new incarnation of the old problems that used to exist with 1900 premium calls and that kind of thing. So these things change over time and there are new incarnations of those. And we see in more traditional areas peaks and troughs in complaints about landline connections and those things are often seasonal. But what is most interesting is if there's a whole new category or a particular problem. So a few years ago, there was a really big problem in the telecommunications industry about complaints handling and that led to a major public inquiry of ours and big changes to the consumer protection code that I mentioned earlier.

JULIE McCROSSIN: We heard earlier about the nbn and that's obviously a huge event in the Australian community. How does that fit with the work that you are all doing in terms of complaints around the nbn? Where do they come to?

JUDI JONES: It depends on what it is. We can't consider complaints about the inability – the fact that nbn is not being rolled out in your area. But we can certainly consider complaints about delays and problems with

installation and installations not working and our complaints about nbn-related services are increasing as the rollout increases. So that's something that's coming through our office, certainly.

RICHARD BEAN: I was going to add that obviously everyone who is interested in telecommunications consumer issues is watching the rollout of the nbn and the switchover, so to speak, from traditional services to nbn-related services and of particular interest to us, and I'm sure others on the panel, is that consumers understand who it is that is responsible for issues and who it is that they can complain to, and we're working with the Commonwealth Department of Communications on that as well. Because we will be moving to an environment in which nbn co is the wholesale infrastructure provider and then everybody else that consumers actually deal with is a retail service provider. And we will all need to be very clear about where responsibility lies for any difficulties consumers have and that there are really effective channels for consumers to go to and also for the retail service providers, with who you as the consumer have the relationship and then nbn co as the provider of the infrastructure upon which all these services are built.

JULIE McCROSSIN: Thank you. And just finally, Vanessa, from the Australian Domain Administration mob, any trend in complaints in your role?

VANESSA STANFORD: We do have some trends but firstly I would like to disagree with the interrelationships. Woer a small group and a little bit different to some of the other organisations out there. One of the biggest trends we've got going is the registration of domain names by international bodies but using Australian legal identifiers. The AB R tool is publicly available and in our space in order to get a '.au' domain name – and across the world it is incredibly trusted as a domain name, it sits in the top ten of trusted domain name spaces, so they want a website ending in '.com.au' and so on and so forth because people will go there and buy things from it. What we are seeing in our space is, sadly, organisations or individuals overseas simply picking up an ABN or ACN off the publicly available tool and going ahead to register a domain name. So I guess there are two issues there. One is how do we check that is in fact the ABN holder. But the flip-side in terms of managing the consumer is organisations – sorry, Rod – such as NSW Fair Trading, don't necessarily know that we exist. We actually have a reasonably good relationship by the way! So it's not Rod but I'm using that as an example. But I got the ATO calling me the other day saying, "I didn't know you existed" and we need to try and take this domain name down and we have been trying to get the name servers removed but because there is a '.com.au' there are policies around it and they can't do it but apparently if we go through you, we can find this out. We're doing that today – they still don't know we exist. So I'm beating my head up against the door asking to be let in and developing the relationship. By the way, I will be staying back afterwards so if anybody wants to chat, that would be great! I was busting to say that!

JULIE McCROSSIN: It is another big Mr Us to ACCAN that you are here in the line-up getting better known. Would you give them a preliminary clap of approval and encouragement?

(APPLAUSE)

I would now like to open the floor to any questions or comments. Any questions or comments? Thank you.

JULIE STOTT: Better internet for rural, regional and remote. I have a query for the TIO lady. We get a lot of complaints on our group from people with nbn that can't get a connection. They get four or five installer cancellations. And another one is they get their installation and it doesn't work. This is mainly Sky Muster installations. And it doesn't work. One person I know is over three months and he still hasn't got a working connection. And we're told that they can't complain to the TIO about nbn – they have to complain to the TIO via their service provider, so their service provider, like Activ8me or Sky Mesh have to have the complaint lodged with them and it's not their fault at all.

JULIE McCROSSIN: Can you speak really closely into your microphone? Thank you.

JUDI JONES: Is that better? To some extent, that is correct. So the TIO looks to the contracting party so it's the contractors that contract with the SMT to get the delivery mechanism and that's probably where we need to have a conversation. But it doesn't matter that they are complaining about the RSP. What it's important is that they get the complaint to us and we can help and that we are not then having a fight about who should the complaint be about. But we're certainly aware of those problems and we're aware of the difficulties and

particularly that the RSP feels the unfairness of a complaint being lodged against them when they can do nothing to fix it and we've been talking with both the nbn and the RSPs about how to get the complaint quickly to the right place to get the problem sorted.

JULIE McCROSSIN: And where is the right place?

JUDI JONES: Well, at the moment, we're doing it through the RSPs and making sure nbn knows it is happening.

JULIE McCROSSIN: And the RSPs are?

JUDI JONES: Retail service providers.

JULIE McCROSSIN: Thank you. Any follow-up?

>> I feel it is a little bit unfair. The RSPs pay a fee to the TIO for every complaint that goes through and they're paying a fee to have the application processed and they can't do anything, no matter how much they try to solve the problem. It's an nbn problem and so the complaints should be going to nbn, not the service providers.

JUDI JONES: Yeah, we understand the issue.

>> Peter Gartland. I have a question for Judi in respect to systemic issues. I think the TIO as you quite rightly pointed out is the largest dispute resolution organisation in the country with over 120,000 complaints a year but as I understand it, there's probably only about 50-odd systemic issues that are looked at annually by the TIO and probably three or four that are hand-balled across to the regulator for some sort of response. So in terms of trying to, you know, have consumer confidence in the independence of the ombudsman and their capacity to address issues that go past the individual complaint, in your role, how do you see systemic issues? Do you see it as – I mean, would you like to see public reporting of systemic issues, for example? Do you think that the number of systemic issues that the TIO is currently looking at is adequate? And in general, how would you be addressing some of these issues in your new role?

JUDI JONES: Thanks, an excellent question and I don't know if I necessarily have the answer to it. I know we're reviewing the way we do systemic issues, with the reorganisation that we're just almost in the middle of completing. We want to review the way we do systemic issues. We're putting the systemic issues function back into the dispute resolution area so that we're putting it more closely to where everyone is dealing with complaints, so that we're more likely to pick them up and we're having senior staff dealing with them. So I think it's a work in progress. I'm not sure whether we report on outcomes for systemic issues – it's what I'm used to doing. I'm not necessarily naming the provider, but certainly reporting on the outcome of the systemic issues work we do, the changes that we get as a result of it. So I guess it's a matter of watch that space, but I'm really conscious that unless we do that work well, we won't achieve our goal of being known and respected.

JULIE McCROSSIN: And you've already offered to come back next year and tell us!

JUDI JONES: Absolutely!

JULIE McCROSSIN: Thank you.

>> Laurie Patton from Internet Australia again, just a point of clarification. I think there is a fundamental systemic problem in the relationship with nbn and the RSPs and we are keen to try and work with them so if anybody has any examples, please let us know because basically what we heard about happening in Bundaberg is just one examples. There are other examples in places like Ballarat where one side of the road gets fibre and the other side gets copper so there are a whole range of issues that we think need to be resolved and we are the people to do it, if you let us and help us.

JULIE McCROSSIN: Can everybody hear? I have a terrible cold and my head is filling up and I'm a bit deaf, so I'm just checking everyone can hear. Thank you.

>> Tim Holborn. As we digitalise our world, systems seem more about the service provider. So we still get receipts and calls are recorded but the citizen doesn't get a copy of that. If these types of systems were enhanced so that citizens had evidence, how would that impact your roles? Your jobs?

JULIE McCROSSIN: This man asks very interesting questions! Can I come to Robyn Hobbs. Do you wanting to first on that one? Do you have a microphone?

ROBYN HOBBS: I do and I actually don't really wanting to first on that one!

(LAUGHTER)

JULIE McCROSSIN: Don't you? Who has an urge to speak? And irrepressible desire to respond to this man?

JUDI JONES: I'm happy to. I agree that call recordings are my old job. Energy companies in New Zealand routinely recorded their calls and we found that dispute resolution went a lot faster because there was a record of what the conversation was. We were no longer going, "I said and he said". So we found that tremendously helpful and in New Zealand you were able to get a copy of your call. So that's interesting.

JULIE McCROSSIN: It is a radical nation, New Zealand, isn't it?!

JUDI JONES: In some ways. The other one we're experimenting with and hoping to move on to with the online chat, what I love is at the end of the chat you get the chat emailed to you so it's there in your own electronic records.

JODIE SANGSTER: Under privacy law, you should be able to get a copy of that anyway. If it's personal information about you that has been recorded by the company on the company's side and you want a copy of it, you should be able to get a copy of that under our existing privacy laws, or get a copy in some way, shape or form anyway. And would it help the complaints process and resolving complaints? Absolutely it would help, because it's just evidence of what has happened in the complaint and it would make it a lot easier to decide whether the complaint is valid or not. And often that's where our complaints run into problems, is that you are literally going with a, "He said, she said" and you don't know where the balance falls. But if there was evidence on both sides, obviously that does significantly help.

JULIE McCROSSIN: Anyone else like to respond to that? Thank you, I have a couple of questions waiting, thank you.

>> Bruce, regarding mass service disruptions or MSDs. I have been challenging this for over a year with ACMA and TIO. I'm having a lot of trouble getting positive outcomes for consumers. We have mass services disruption that applies from date A to date B but within the notice has got DC to date D – completely different dates. I can get neither the ACMA or the TIO to rule what the dates should be or what that exemption is. How hard is it to get a ruling that an exemption is or isn't valid?

JULIE McCROSSIN: Could someone explain both the question and then the answer?!

(LAUGHTER)

I am an outsider but I know we have other new people here. So what is this issue this gentleman is raising and then what is the answer? Do you wanting to first, help me, sir?

>> Me? Mass service disruptions are – well, they are a thing which exists... under which for example Telstra is able to say that there has been, for example, a cyclone and so it ought to be relieved of its obligations to install or repair or whatever, someone's telephone service within the sorts of time-frames that they should. So these things do exist. There are mass service disruptions – there are cyclones and bushfires and so on. And from there, that's sort of simple to state that. But then immediately it becomes more complicated. Because resources are then diverted to the location of the disruption, so other parts of the country which were not, you might think, affected by the cyclone then suffer from degradation of service because everyone is up in North Queensland fixing stuff or whatever.

JULIE McCROSSIN: And the dates are significant?

RICHARD BEAN: Well, I'm not going, I think, to be terribly helpful about this. I don't really understand the specific issue, but it seems to me that where a mass service disruption is notified, then the terms of that notification are presumably reasonably clear, so that it has a location and a time period. But I'm afraid I don't have the details of that at my fingertips.

JULIE McCROSSIN: Are you able to help us, Judi?

JUDI JONES: I'm not sure I understand the particular specific issue either. I understand what Richard has just explained and I would have thought that – and, you know, perhaps this is, I don't know, cheering you up or making you more frustrated. I would have thought a date was a date. But I can't comment, obviously, on a specific example in this kind of forum.

JULIE McCROSSIN: Can I just get a comment from this gentleman and I will come back to you if I may.

RICHARD BEAN: Well, I was going to say there may be other people in the audience who have more detailed experience of this than either Judi or I who can help but by all means go back to the questioner.

JULIE McCROSSIN: Can you explain your concern again?

>> With regard to the dates there is a difference between the published date online or in the newspaper and what is contained in the actual exemption notice. Now, there has been something like 20 examples since 2011 that I've notified both the TIO and ACMA and I can't get anyone to say, "No, you can't have two opening and closing dates". For example, a storm. An event occurs on 1 October and we get a mass service disruption notice that says that from 25 September to 25 October there is an exemption. Which clearly cannot happen because the event hasn't occurred. But online, it has a date, the 8-28th October.

JULIE McCROSSIN: And what is the impact on your consumers?

>> Currently the TIO and the phone providers will say that exemption applies for the complete dates from the start and end, even though the event hasn't occurred. And they miss out on compensation under the standard.

JULIE McCROSSIN: So you miss out on compensation. Is there anyone else who would like to comment on this? I feel the group are listening intently but is there anyone else who would like to comment in relation to this matter or can assist us in any way? I think we add that to the list of things, Judi, that we come back for in twelve months' time to hear! But thank you, sir, for raising it. I had someone else, thank you.

>> Helen Campbell, Women's Legal Service NSW. My question is primarily for the TIO. I'm participating on an industry committee which is reviewing the code for dealing with life-threatening calls. We are interested – we are interested in women who are victims of domestic violence and being threatened and we need our women to get access to calling records of the abuser, like not access to their own records, but records of the abuser, in order to demonstrate the risk for the purpose of court proceedings. In the context of that industry code we've been told that the Privacy Commissioner has said that the perpetrator's privacy is so important that it should be protected over and above the woman's safety. Obviously we're not happy with that outcome. My question for the TIO is that I believe the TIO has a place on that committee, but has not put in an appearance at any of the meetings that I have attended and I'm wondering whether that is an effect of your restructure of your office that you were describing? Because I would very much value active participation from the TIO.

JULIE McCROSSIN: And the name of the committee again?

>> Life-threatening and unwelcome calls.

JUDI JONES: How long has the committee been meeting for?

>> Since about March.

JUDI JONES: Then no, completely unrelated to the restructure. I will look into it when I get back. I have never heard of it, no-one has mentioned it to me, I did not know we were not attending.

JULIE McCROSSIN: OK, thank you very much. I think I saw a hand here. Thank you.

DAVID BRADY: I'm David Brady, Deafness Forum of Australia. A lot of my clients in Australia rely on captioning and descriptions on videos and things, a lot of small businesses in the future are moving online and moving to content videos. One of the biggest problems we have, they're not captioned and we're also seeing a reduction in captioning, or accessibility, across the broad spectrum, especially in media and television, and also for translation from a TV show to the internet, or companies, small businesses or large businesses putting up videos or advertising with no information. So we find that we're being left out and we don't know where to complain – or is it better for using to straight to the top of government to make it law that it should be mandatory for captioning on every video content online and TV 24/7.

JULIE McCROSSIN: Now who is the most relevant person? Help me guys.

>> That would fall into my area. You might recall I said if we're going to advocate for regulatory reform or change, everything we do needs to be evidence-based. So while you have a particular point of view that that's what you would like to see, we would want to have a conversation with you – more than happy to do that – we would want to actually understand what it was, what the impacts of it were. And then if we felt it was valid to actually raise that for consideration, we would take that forward. There are lots of concerns that people have that they feel this is how their businesses should be treated, but I think it's really important to make sure that we're moving from the right base and getting the right changes.

JULIE McCROSSIN: Can I just ask you, isn't state and federal discrimination legislation relevant to something like captioning for the deaf? I mean, it's so fundamental.

DAVID BRADY: Yes, but, there are regulations and policies people use to get around it or say they can't do it. I also know for example ABC just cut back on captioning because of the budget cutbacks and they are using that excuse. We're also seeing, for example, some of the reality TV shows on Channel Ten like Survivor, it goes on Channel Ten online and there's no captions. We put a complaint in – nothing gets heard and there's no legislation on that from media companies. And also the other fact is that when small businesses and even medium-sized businesses put advertising on their website, there are no captions at all. So where do we go for that? I mean, we like to complain but it just seems to be overwhelming for one in six Australians.

JULIE McCROSSIN: Anyone else like to comment, please? If you could grab a microphone.

>> I was just going to say that the ACMA administers the captioning requirements for broadcast television and there are requirements that television broadcasts between 6:00am and midnight be captioned and they have been introduced over a period of time. We don't regulate internet content in this country. So that includes requirements for captioning of online content. The Human Rights Commission does have a role and in relation to other stuff online, so, for example, if you go to someone's website and there is a video explaining what you need to do – there are standards which I know about because we seek to comply with them on our ACMA website, for example. So there are various ways of assisting sight- and hearing-impaired people. But it is true to say that there is not an overarching legal requirement that all audio-visual content that's accessible in this country is captioned.

JULIE McCROSSIN: Anyone else like to respond?

>> I think there's two ways to approach it and one you've mentioned yourself. One is top-down, "I need a regulation or law that says you have to do this" and the other one is the bottom-up. Because I say in the marketing and advertising industry there is probably a lack of awareness more than anything, or lack of thought around, that we should be captioning our advertising to make it more accessible. So I think perhaps, as well as looking at the top-down, the bottom-up would be worthwhile and working with – there's probably four or five marketing and advertising associations to raise this as an issue and put it in front of businesses and marketers so they can think about it and respond to it as well and we would be happy to have that conversation with you.

The other thing I should say is actually at a conference just last week we were talking about content marketing and online marketing and the trend actually is that captioning has come back in, and it's because us all on Facebook, we scroll down and we haven't got the sound on and so now all Facebook ads, you are starting to – well, ads or videos – are starting to have captioning put back on because that's the way we're consuming the contents. So some of it is happening just by osmosis, should we say.

JULIE McCROSSIN: And we were talking earlier about because of the age of the population the number of people with hearing impairment is going to skyrocket over the next few years. But of course, I can't be the only person who sits in bed and my partner also has the computer on and for exactly that reason you don't want to turn the volume up in order to maintain your relationship! So captioning is also good for sustaining the family, which is good for health in every aspect of life and wellbeing! We're almost finished. I've got time for one last question. If you don't mind, sir, I will go to this gentleman here.

>> I'm sorry, I've actually got two questions.

JULIE McCROSSIN: Who are you?

>> I'm Andrew Colley, I'm a freelance journalist. For Judi I wanted to see what the trend in complaints was around nbn – is it activations or is it line speeds or speeds?

JULIE McCROSSIN: Hold on a second. So the first one, please?

JUDI JONES: Um, that is a good question. I don't have the data at my fingertips. It's a combination. Go back to the single... the most popular single issue complaint is about speeds. But the complaints are a mixture of activations, delays and point of sale problems.

>> Sorry, and the other one was just more out of curiosity in relation to the previous comments about threatening calls. I was just wondering, I thought that there was a provision in the Telecommunications Act that you could record a call if you believed there was a crime in process. I was wondering if I could get some clarity on that from any of you.

RICHARD BEAN: Well, I'd... I do know a bit about the Surveillance Devices Act but it does vary from state to state and my understanding from my dim, dark past is that in fact if you – you may do so in order to protect your own – you know, your legal position, yes. But I think the issues about threatening calls and so on are also to do with not only access to information about the caller, the threatening caller, which I would have thought would have been a matter for warrants and so on through the police, but also for the protection of the person being called – so calling number and identification and that type of thing.

JULIE McCROSSIN: Ladies and gentlemen, I just want to say, I do a lot of conferences but these people have been having intellectually dense and engaging interaction since 9:00 this morning and would you agree they've come to the issue of complaints and resolutions with a sort of arousal and passion that is rare!

(LAUGHTER)

And I commend you for your commitment to the best interests of the Australian citizen population and I ask you to thank these people for coming here and giving us their answers.

(APPLAUSE)