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Day 1, Wednesday 14th September

5:00-5:15pm: Improving the Communication of Privacy Information for Consumers – Report Launch

So if you would like to leave the stage, if you would, and we just have one last session before there's drinks. And you are most welcome to stay if you are able. This will all be finishing in 15 minutes. So just as they leave.

JULIE McCROSSIN: Ladies and gentlemen, we now move to the end of our Day 1. Just a reminder that we will be reforming here in this room at 8:55 tomorrow morning. We're now going to launch a report. It's about Improving the Communication of Privacy Information for Consumers. It involves the communication law centre at UTS, and some work done under a grant from ACCAN. I'd like to welcome Dr Elizabeth Coombs, the Privacy Commissioner NSW. I'd also like to acknowledge Jonathon Hunyor, the CEO of PIAC, and Professor Michael Fraser, the report author, the director of the Communication Law Centre at UTS. Until very recently, I think this law centre may be closing. Let's begin with Dr Elizabeth Coombs. Please give her a warm round of applause.

(APPLAUSE)

ELIZABETH COOMBS: Thank you very much. I really appreciate the opportunity to be here today as a former commissioner of fair trading and now current NSW Privacy Commissioner. This report brings together two areas which are, I feel, extremely important – that of the rights of consumers, but also the right to privacy. I was recently in New York at a United Nations workshop convened by the United Nations special raconteur on the right to privacy, a newly created position as of July last year. One of those five workshops was on the actual use of personal information by businesses, and the rights that that brought up in the whole area of consumer opportunities, rights and the protection of their personal information. So not only is this report particularly commendable in terms of the thoroughness of the research upon which it's based, the timeliness of the recommendations, but also, too, what's happening internationally. So, I'm in the very fortunate position of being able to have the opportunity to speak to the reporter and its launch, but also just to say a few brief words about its authors and its content. Many of you may know that it was produced by Mr Mark Briedis, Ms Jane Webb and, if you heard, Professor Michael Fraser. They will be speaking to you later this evening, but I just want to say that, not only does it represent an intensive study, but it also goes to those points of collection, presentation, and retention policies by four key outlets. The complexity of privacy information is a key thing to consider here. So we have social media companies, mobile app publishers, web browsers, and search engines. As you appreciate through, probably, no doubt, your own use of these privacy policies, which far too many of us quickly click on and move on, is that the terms and conditions tend to be too complex and rarely read. They frequently lack balance, and they can also at times be unfair and not fit for purpose. And they raise very significant issues. So the report advances privacy considerations and it takes into account the need to be more relevant, helpful, accessible, but importantly, to provide choices for consumers as to how they can protect their privacy. So, I applaud the report. I'm very happy to be in this position where I launch it and hand it over to you, and I would just like to say what a credit it is both to its authors, but also to the centre and the legacy that it has created and leaves. So, please join with me in commending the report, and those who've worked so hard to produce it.

(APPLAUSE)

JONATHON HUNYOR: Thanks very much. I'm the CEO of the Public Interest Advocacy Centre, and PIAC's had a long association with the Communications Law Centre. I'm really delighted to have been asked to come here

and meet with you on Larakia... Sorry, I've just moved down from Darwin, you'll have to forgive me – on Gadigal land to accept this fantastic publication. I was a bit worried when I was asked to do it that I wasn't the right person to take on the job, because the first thing I did, of course, was print off a hard copy to read it... Which perhaps suggests I'm not the most online-literate person around. But, coming to this report, the first thing that struck me was it achieves what privacy policies, either accidentally or by design, do not. It is clear. It is informative. And it's accessible. Communication of privacy information for consumers is obviously an issue that matters, not least because, at a basic level, we should know what we're signing up for. But I don't need to tell this audience. It is also important because of the use to which that information can be put, and that's becoming increasingly important beyond its use in marketing – we've obviously seen things like the role BigData plays in political campaigning, not only in the United States, but also in Australia. The report makes the point that improving the understanding of consumers is critical if we're going to be able to exercise control over how our information is being handled, and in empowering us individually as legal actors. I think what's also interesting is the potential role that it may play in empowering collective action by consumers if, indeed, consumers want to take up the power of the internet to demand and take control over how their information is being used – but that can't happen unless we understand what it is we're clicking on before we click on "Accept". So I'm very pleased to accept a report on behalf of PIAC, and I commend ACCAN and their authors for this fine piece of work.

(APPLAUSE)

MICHAEL FRASER: Thank you, Commissioner Elizabeth Coombs and Jonathon Hunyor. Thank you, Teresa Corbin and Narelle Clark and Tanya Karliychuk and ACCAN for the generous grant which funded this research. Thank you, also, for the great encouragement and the disinterested scholarly support that you gave us from ACCAN. I'd like to acknowledge the excellent work of Mark Briedis and Jane Webb, my co-authors. This was the last piece of research done by the Communications Law Centre. I'd also like to thank the members of the industry and regulatory reference group for making the time to meet and discuss the issues raised in this research. In 2010, when Gamestation included a clause in their privacy policy giving Gamestation an "unlimited, non-transferrable right to consumers' souls", 7,500 consumers consented.

(LAUGHTER)

Privacy policies and online contracts do not serve consumers well. They're rarely read or challenged, and I wonder if they're actually unconscionable and unenforceable. Consumers give away large amounts of their information to companies – some of the biggest companies in the history of the world. Those companies aggregate and analyse it and sell it to third parties to reveal consumers' purchasing habits, their interests and their personal lives. This research examines how online service providers – many of which provide wonderful services – handle our personal information. It looks at their privacy policies and notices, and examines how service providers communicate privacy information to consumers. This knowledge can be used to create the knowledge that we researched and gathered – it can be used to create and test models for better privacy communications to empower consumers to read and engage with privacy policies. Privacy standards and settings should help to establish fair policy norms that favour the privacy of the consumer and the citizen. We also consider whether consumer and privacy law offer sufficient protection for our private and our sensitive information. There is an opportunity for service providers to innovate and compete in providing consumers with better information about privacy and more opportunities for informed consent. They can improve trust in their relationships with their consumers. Consumers should be able to withhold or give express, informed consent for the use of their information, and to actively exercise a high level of control over how their information is collected and exploited. Consumers should be able to make choices in dealing with service providers that allow them to enjoy the benefits of online services without having to provide personal information for marketing purposes. This report makes simple recommendations to improve the standard of communication and consent to empower consumers to take active control over their personal information. Privacy communication should provide consumers with flexible, meaningful and actionable privacy choices and controls at the time consumers read the privacy information and afterwards. We also recommend further empirical research should be done to test the effectiveness of different multimedia privacy communications and control models. The way... I think that the way we manage our privacy will go a long way to shaping our society and our rights as citizens. Thank you.

(APPLAUSE)

JULIE McCROSSIN: Well, ladies and gentlemen, we're due now to have drinks and canapés and so, with the consent of my group on stage, I'd like to thank them for launching this report and ask you to speak to them in the course of your drinks and food, if you have further questions to ask. I won't be with you tomorrow, but I'll be handing over, of course, to Teresa Corbin, who will be opening the conference, the second day of the conference, at 8:55. But let's go out now and have a chat on the terrace. A final round of applause, please, to our report launchers.

(APPLAUSE)

And a very special welcome to our new head of the Public Interest Advocacy Centre – very exciting to meet you!

(APPLAUSE)

Thank you, ladies and gentlemen. We'll see you outside.

(End of session.)